

# AGENDA OF AN ADJOURNED REGULAR MEETING - NATIONAL CITY CITY COUNCIL / COMMUNITY DEVELOPMENT COMMISSION - HOUSING AUTHORITY OF THE CITY OF NATIONAL CITY

COUNCIL CHAMBERS
CIVIC CENTER
1243 NATIONAL CITY BOULEVARD
NATIONAL CITY, CALIFORNIA
TUESDAY, JULY 24, 2018 – 6:00 PM

**ORDER OF BUSINESS:** Public sessions of all Regular Meetings of the City Council / Community Development Commission - Housing Authority (hereafter referred to as Elected Body) begin at 6:00 p.m. on the first and third Tuesday of each month. Public Hearings begin at 6:00 p.m. unless otherwise noted. Closed Sessions begin at 5:00 p.m. or such other time as noted. If a workshop is scheduled, the subject and time of the workshop will appear on the agenda. The Mayor and Council members also sit as the Chairperson and Members of the Board of the Community Development Commission (CDC).

**REPORTS:** All open session agenda items and reports as well as all documents and writings distributed to the Elected Body less than 72 hours prior to the meeting, are available for review at the entry to the Council Chambers. Regular Meetings of the Elected Body are webcast and archived on the City's website **www.nationalcityca.gov**.

**PUBLIC COMMENTS:** Prior to the Business portion of the agenda, the Elected Body will receive public comments regarding any matters within the jurisdiction of the City and/or the Community Development Commission. Members of the public may also address any item on the agenda at the time the item is considered by the Elected Body. Persons who wish to address the Elected Body are requested to fill out a "Request to Speak" form available at the entrance to the City Council Chambers, and turn in the completed form to the City Clerk. The Mayor or Chairperson will separately call for testimony of those persons who have turned in a "Request to Speak" form. If you wish to speak, please step to the podium at the appropriate time and state your name and address (optional) for the record. The time limit established for public testimony is three minutes per speaker unless a different time limit is announced. Speakers are encouraged to be brief. The Mayor or Chairperson may limit the length of comments due to the number of persons wishing to speak or if comments become repetitious or irrelevant.

WRITTEN AGENDA: With limited exceptions, the Elected Body may take action only upon items appearing on the written agenda. Items not appearing on the agenda must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature, and the need to take action on such items arose after the agenda was posted.

**CONSENT CALENDAR:** Consent calendar items involve matters which are of a routine or noncontroversial nature. All consent items are adopted by approval of a single motion by the City Council. Prior to such approval, any item may be removed from the consent portion of

RON MORRISON Mayor

ALBERT MENDIVIL Vice Mayor

JERRY CANO Councilmember

MONA RIOS Councilmember

ALEJANDRA SOTELO-SOLIS Councilmember

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the agenda and separately considered upon request of a Councilmember, a staff member, or a member of the public.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Spanish audio interpretation is provided during Elected Body Meetings. Audio headphones are available in the lobby at the beginning of the meeting.

Audio interpretación en español se proporciona durante sesiones del Consejo Municipal. Los audiófonos están disponibles en el pasillo al principio de la junta.

Spanish to English interpretation services are available to members of the public who wish to speak to the City Council during the meeting. "Request to Speak" forms requesting interpretation must be filed within the first two hours of the meeting.

Español a los servicios de interpretación Inglés de audio está disponibles para los miembros del público que desean hablar con el Ayuntamiento durante del Consejo Municipal. "Solicitud para hablar de" formas solicitud de interpretación deben ser presentadas dentro de las dos primeras horas del Consejo Municipal.

COUNCIL REQUESTS THAT ALL CELL PHONES AND PAGERS BE TURNED OFF DURING CITY COUNCIL MEETINGS.

#### **OPEN TO THE PUBLIC**

#### A. CITY COUNCIL

**CALL TO ORDER** 

**ROLL CALL** 

PLEDGE OF ALLEGIANCE TO THE FLAG

PUBLIC COMMENTS (THREE-MINUTE TIME LIMIT)

#### **PROCLAMATIONS**

- 1. Alzheimer's and Brain Awareness Month
- 2. NaFFAA San Diego/ Imperial Region Filipino-American Friendship Day

#### AWARDS AND RECOGNITIONS

**PRESENTATIONS** 

#### **INTERVIEWS / APPOINTMENTS**

#### CONSENT CALENDAR

- 3. Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances considered at this meeting and providing that such Ordinances shall be introduced and/or adopted after a reading of the title only. (City Clerk)
- 4. Resolution of the City Council of the City of National City 1) authorizing the Chief of Police to sign a Memorandum of Understanding with the Federal Bureau of Investigation (FBI) to participate in operations with the Human Trafficking and Child Exploitation Task Force (HTCETF), 2) authorizing the acceptance of funds, and 3) authorizing the establishment of an appropriation and corresponding revenue budget for overtime up to the amount of \$18,042 per fiscal year. The HTCETF conducts criminal investigations to identify and target criminals who engage in sex trafficking, forced labor trafficking, domestic servitude and to rescue child victims; to reduce the vulnerability of children to sexual exploitation and abuse. (Police)
- 5. Resolution of the City Council of the City of National City; 1) authorizing the acceptance of a grant award in the amount of \$100,000 from the Office of Traffic Safety (OTS) for the Selective Traffic Enforcement

Program (STEP) grant 2019 to conduct DUI and traffic related enforcement operations; 2) authorizing the Chief of Police to execute the Agreement of the award of the grant funds; and 3) authorizing the establishment of fund appropriations and corresponding revenue budget. (Police)

- 6. Resolution of the City Council of the City of National City waiving the formal bid process pursuant to National City Municipal Code section 2.60.220, subsection (B), sole source procurement and authorizing the Mayor to execute the Agreement with Thermo Scientific Portable Analytical Instruments, Inc., for the not to exceed amount of \$61,896.15 for the Police Departments purchase of two (2) TruNarc chemical identification systems, with a 5-year warranty on each machine. (Police)
- 7. Resolution of the City Council of the City of National City authorizing the Mayor to execute the First Amendment to the City of San Diego Fire and Emergency Medical Dispatch Services Agreement by and between the City of San Diego and the City of National City to extend the term of the Agreement for one additional year, retroactive to July 1, 2018 through June 30, 2019. (Fire)
- 8. Resolution of the City Council of the City of National City waiving the formal bid process pursuant to Municipal Code section 2.60.260 for the purchase of a Pierce Arrow XT pumper with equipment for the National City Fire Department, and authorizing the City to piggyback the City of Los Angeles Supply Contract 59710 Amendment 1 with Pierce Manufacturing, Inc., for a not to exceed amount of \$707,701.37 using the Vehicle Replacement Fund. (Fire)
- 9. Resolution of the City Council of the City of National City, waiving the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City (Buyer) 1) to piggyback the State of California Department of General Services Contract No. 1-18-23-14B to award the purchase and build-out of six (6) fully equipped police patrol vehicles to Folsom Lake Ford in an amount not to exceed \$363,109.38; 2) and to piggyback County of San Diego Department of Purchasing and Contracting Contract No. 550743 to award the purchase of police radios for the new patrol vehicles to the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., in an amount not to exceed \$27,729.91. (Engineering/Public Works)
- 10. Resolution of the City Council of the City of National City, waiving the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City (Buyer) to piggyback the National Joint Powers Alliance Contract #120716-NAF to award the purchase and build-out of two (2) 2019 Ford Transit Connect Vans (S7E) XL LWB to National Auto Fleet Group in an

- amount not to exceed \$58,506.68 for the Engineering and Public Works Facilities Maintenance Division. (Engineering/Public Works)
- 11. Resolution of the City Council of the City of National City authorizing the installation of 25 feet of additional red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard (TSC No. 2018-12). (Engineering/Public Works)
- 12. Resolution of the City Council of the City of National City authorizing the installation of Stop Control at various intersections within the neighborhood bounded by E. 1st Street to the north, E. 4th Street to the south, Highland Avenue to the east and "D" Avenue to the west (TSC No. 2018-13). (Engineering/Public Works)
- 13. Resolution of the City Council of the City of National City authorizing the removal of one, 15-minute time restricted parking space in front of the residence located at 1039 "D" Avenue (TSC No. 2018-14). (Engineering/Public Works)
- 14. Resolution of the City Council of the City of National City authorizing the removal of two, 30-minute time restricted parking spaces in front of the building located at 1900 Wilson Avenue (TSC No. 2018-15). (Engineering/Public Works)
- 15. <u>Temporary Use Permit Pumpkin Station hosted by Pinery Christmas Trees, Inc. at Westfield Plaza Bonita Mall from September 28, 2018 thru October 31, 2018 with no waiver of fees. (Neighborhood Services)</u>

#### PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS

16. Public Hearing and adoption of an Ordinance of the City Council of the City of National City amending National City Municipal Code Title 13, Section 13.22.060, Subsection "A" pertaining to public improvement requirements for single building permits. (Engineering/Public Works)

#### NON CONSENT RESOLUTIONS

- 17. Resolution of the City Council of the City of National City calling and giving notice of the holding of a General Municipal Election to be held on Tuesday, November 6, 2018, for the purpose of submission of a ballot measure to the voters as required by the provisions of the laws of the State of California relating to general law cities. (City Clerk)
- 18. Resolution of the City Council of the City of National City ordering the submission of a measure to the qualified voters of the City of National City at the General Municipal Election to be held on November 6, 2018, relating to approval of an Ordinance establishing a program of residential rent control, including creation of an independent rent board, and including

- just cause for eviction protections and rent stabilization provisions. (City Clerk)
- 19. Resolution of the City Council of the City of National City requesting the Board of Supervisors of the County of San Diego to consolidate a General Municipal Election to be held on November 6, 2018 with the Statewide General Election to be held on that date pursuant to Section 10403 of the Elections Code. (City Clerk)
- 20. Resolution of the City Council of the City of National City authorizing the filing of an impartial analysis and written arguments relating to a measure to approve an Ordinance establishing a program of residential rent control, including creation of an independent rent board, and including just cause for eviction protections and rent stabilization provisions. (City Clerk)

#### **NEW BUSINESS**

- 21. Update on the status of finalizing Maintenance and Operating Agreements with the National City Historical Society, National City Living History Farm Preserve and the San Diego Electric Railway Association for consideration by the City Council. (Housing & Economic Development)
- 22. Results of investigations by Lozano Smith, Attorneys at Law into the allegations against Councilmember Cano and the allegation against Councilmember Rios. (City Attorney)
- 23. <u>City Council discussion and direction on draft City Council Policy #119 Code of Ethics and Conduct for Elected Officials, Council Appointed Officials, and Members of City Boards, Commissions and Committees. (City Manager)</u>

### B. COMMUNITY DEVELOPMENT COMMISSION - HOUSING AUTHORITY

CONSENT RESOLUTIONS - HOUSING AUTHORITY

PUBLIC HEARINGS: RESOLUTIONS - HOUSING AUTHORITY

#### NON CONSENT RESOLUTIONS - HOUSING AUTHORITY

24. Resolution of the Community Development Commission-Housing
Authority of the City of National City authorizing the Executive Director to
execute a Subordination Agreement with Wilmington Trust, National
Association, subordinating the Project Deed of Trust that secures the
Declaration of Covenants, Conditions and Restrictions (Tenant
Restrictions) on Summercrest Apartments located at 2721 Plaza
Boulevard in National City. (Housing & Economic Development)

#### **NEW BUSINESS - HOUSING AUTHORITY**

#### C. REPORTS

#### STAFF REPORTS

#### MAYOR AND CITY COUNCIL

25. <u>Discussion of language for a resolution in opposition to the Trump Administration's "Zero Tolerance" Policy and Family Separation of Immigrants. (Councilmember Sotelo-Solis)</u>

#### **CLOSED SESSION REPORT**

#### ADJOURNMENT

Regular Meeting of the City Council and Community Development Commission - Housing Authority of the City of National City - Tuesday - September 4, 2018 - 6:00 p.m. - Council Chambers - National City, California.

City Council Legislative Recess:

August 7, 2018 - City Council Meeting - Dispensed With August 21, 2018 - City Council Meeting - Dispensed With

The following page(s) contain the backup material for Agenda Item: Alzheimer's and Brain Awareness Month

Item	#
07/24	1/18

## **ALZHEIMER'S AND BRAIN AWARENESS MONTH**

**Proclamation Forthcoming** 

The following page(s) contain the backup material for Agenda Item: NaFFAA San Diego/ Imperial Region Filipino-American Friendship Day

Item # \_\_\_\_ 07/24/18

# NaFFAA San Diego/Imperial Region Filipino-American Friendship Day

**Proclamation Forthcoming** 

The following page(s) contain the backup material for Agenda Item: Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances considered at this meeting and providing that such Ordinances shall be introduced and/or adopted after a reading of the title only. (City Clerk)

Item # \_\_\_\_ 07/24/18

MOTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING THE WAIVING OF THE READING OF THE TEXT OF THE ORDINANCES CONSIDERED AT THIS MEETING AND PROVIDING THAT SUCH ORDINANCES SHALL BE INTRODUCED AND/OR ADOPTED AFTER A READING OF THE TITLE ONLY.

(City Clerk)

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City 1) authorizing the Chief of Police to sign a Memorandum of Understanding with the Federal Bureau of Investigation (FBI) to participate in operations with the Human Trafficking and Child Exploitat

### CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE:

July 24, 2018

AGENDA ITEM NO.

#### ITEM TITLE:

Resolution of the City Council of the City of National City 1) authorizing the Chief of Police to sign a Memorandum of Understanding with the Federal Bureau of Investigation (FBI) to participate in operations with the Human Trafficking and Child Exploitation Task Force (HTCETF), 2) authorizing the Chief of Police to sign a Cost Reimbursement Agreement (CRA) with the FBI, 3) authorizing the acceptance of HTCETF funds of up to \$18,042 per fiscal year, and 4) authorizing the establishment of a Police Department Grants Fund appropriation and corresponding revenue budget for the funds. The HTCETF conducts criminal investigations to identify and target criminals who engage in sex trafficking, forced labor trafficking, domestic servitude and to rescue child victims; to reduce the vulnerability of children to sexual exploitation and abuse.

PREPARED BY: Greg Seward, Lieutenant

PHONE: Ext. 4538 DEPARTMENT: Police

APPROVED BY:

**EXPLANATION:** 

If the Resolution is approved by the City Council, it will allow the Chief of Police to sign a Memorandum of Understanding with the FBI and a Cost Reimbursement Agreement (CRA) to have a National City Police Officer participate in operations with the Human Trafficking and Child Exploitation Task Force (HTCETF). The HTCETF conducts criminal investigations to identify and target criminals who engage in sex trafficking, forced labor trafficking, domestic servitude and to rescue child victims; to reduce the vulnerability of children to sexual exploitation and abuse. In addition, the HTCETF will enhance the effectiveness of the federal/state/local law enforcement resources through well-coordinated information

sharing/investigative/prosecutorial avenues.

The MOU will allow our Human Trafficking Task Force (HTTF) Officer to participate in joint operations with HTCETF. By participating in these operations, the HTCETF may reimburse NCPD for overtime expended on these federal criminal prosecutions. For the purposes of the MOU, each participating agency is responsible for providing its respective personnel to participate in operations to the HTCETF with salaries, benefits and overtime. Overtime will be reimbursed by HTCETF for qualifying cases up to the amount of \$18,042 per year as set forth by the Salary /Overtime Compensation section. In furtherance, the assigned Investigator may be provided the use of a FBI owned/leased vehicle. The duration of the MOU is ongoing, contingent to funding for the program.

#### FINANCIAL STATEMENT:

Revenue: 290-11667-3498

APPROVED: APPROVED:

Finance MIS

ACCOUNT NO.

(Other Federal Grants) \$18,042

Expense: 290-411-667-1\*

(Personnel) \$18,042

No net financial impact. Revenues off-set expenses.

#### **ENVIRONMENTAL REVIEW:**

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

#### STAFF RECOMMENDATION:

Approve Resolution.

**BOARD / COMMISSION RECOMMENDATION:** 

#### ATTACHMENTS:

FBI MOU

FBI Cost Reimbursement Agreement

State and Local OT Authorization Amount

Resolution

#### FEDERAL BUREAU OF INVESTIGATION **HUMAN TRAFFICKING AND CHILD EXPLOITATION TASK FORCE MEMORANDUM OF UNDERSTANDING**

#### **PARTIES**

This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI) and the City of National City, National City Police Department. Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between these agencies.

#### **AUTHORITIES**

Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

#### **PURPOSE**

The purpose of this MOU is to delineate the responsibilities of Human Trafficking and Child 3. Exploitation Task Force (HTCETF) personnel formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize interagency cooperation. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.)

#### **MISSION**

- The mission of the Human Trafficking and Child Exploitation Task Force (HTCETF) is to provide a 4. rapid and intelligence-driven investigative response to sex trafficking; forced labor trafficking; domestic servitude; the victimization of children and other crimes against children within the FBI's jurisdiction; to identify and rescue child victims; to reduce the vulnerability of children to sexual exploitation and abuse; to reduce the negative impact of domestic and international parental rights disputes; and to strengthen the capabilities of the FBI and federal, state, local, and international law enforcement through training, intelligence-sharing, technical support, and investigative assistance.
- The defined priority threats that are aligned with the mission of the HTCETF are:
  - A. **Human Trafficking** 
    - i. Recruitment, harboring, transportation, provision, or obtaining of a person for labor or commercial sexual services
  - В. **Child Abductions** 
    - i. Non-ransom child abductions
    - ii. Domestic parental kidnapping
  - **Sexual Exploitation of Children Enterprises** C.
    - i. Domestic Child Sex Trafficking

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ii. Online Networks and Enterprises

#### D. Contact Offenses Against Children

- i. Domestic travel with intent to engage in illegal sexual activity with a minor
- ii. Child Sex Tourism travel abroad to engage in commercial sexual exploitation of a child under the age of 18
- iii. Production of Child Pornography
- iv. Coercion/enticement of a minor

#### E. Trafficking of Child Pornography

- i. Mass Distribution of Child Pornography
- ii. Possession of Child Pornography
- F. International Parental Kidnapping
- G. Other Crimes Against Children
  - All other crimes against children violations within the FBI's jurisdiction should be investigated in accordance with available resources.

#### **SUPERVISION AND CONTROL**

#### A. Supervision

- 6. Overall management of the task force shall be the shared responsibility of the participating agency heads and/or their designees.
- 7. The Special Agent in Charge (SAC) of the San Diego Division shall designate one Supervisory Special Agent (HTCETF Supervisor) to supervise the HTCETF. The HTCETF Supervisor may designate a Special Agent to serve as the Task Force Coordinator (Task Force Coordinator). Either the HTCETF Supervisor or the Task Force Coordinator shall oversee day-to-day operational and investigative matters pertaining to the HTCETF.
- 8. Conduct undertaken outside the scope of an individual's HTCETF duties and assignments under this MOU shall not fall within the oversight responsibility of the HTCETF Supervisor or Task Force Coordinator. As stated in paragraph 74, below, neither the United States nor the FBI shall be responsible for such conduct.
- 9. HTCETF personnel will report to his or her respective agency for personnel and administrative matters. Each participating agency shall be responsible for the pay, overtime, leave, performance appraisals, and other personnel matters relating to its employees detailed to the HTCETF. The FBI and the participating agency may provide for overtime reimbursement by the FBI by separate written agreement.
- 10. All FBI personnel will adhere to the FBI's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical conduct for employees of the DOJ.
- 11. All HTCETF personnel, which includes Task Force Officers, Task Force Members, and Task Force Participants, must adhere to the applicable U.S. Attorney General's Guidelines and Domestic Operations Investigative Guidelines (DIOG).
- 12. HTCETF personnel will continue to report to their respective agency heads for non-investigative administrative matters not detailed in this MOU.

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 Continued assignment of personnel to the HTCETF will be based on performance and at the discretion of appropriate management. The FBI SAC and HTCETF Supervisor will also retain discretion to remove any individual from the HTCETF.

#### B. Case Assignments

- 14. The FBI HTCETF Supervisor will be responsible for opening, monitoring, directing, and closing HTCETF investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.
- 15. Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the HTCETF Supervisor.
- For FBI administrative purposes, HTCETF cases will be entered into the relevant FBI computer system.
- 17. HTCETF personnel will have equal responsibility for each case assigned. HTCETF personnel will be responsible for complete investigation from predication to resolution.

#### C. Resource Control

18. The head of each participating agency shall determine the resources to be dedicated by that agency to the HTCETF, including personnel, as well as the continued dedication of those resources. The participating agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

#### **OPERATIONS**

#### A. Investigative Exclusivity

- 19. It is agreed that matters designated to be handled by the HTCETF will not knowingly be subject to non-HTCETF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the HTCETF's existence and areas of concern.
- 20. It is agreed that there is to be no unilateral action taken on the part of the FBI or any participating agency relating to HTCETF investigations or areas of concern. All law enforcement actions will be coordinated and cooperatively carried out.
- 21. HTCETF investigative leads outside of the geographic areas of responsibility for FBI San Diego Division will be communicated to other FBI offices for appropriate investigation.

#### **B. Confidential Human Sources**

22. The disclosure of FBI informants, or Confidential Human Sources (CHSs), to non-HTCETF personnel will be limited to those situations where it is essential to the effective performance of the HTCETF. These disclosures will be consistent with applicable FBI guidelines.

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- 23. Non-FBI HTCETF personnel may not make any further disclosure of the identity of an FBI CHS, including to other individuals assigned to the HTCETF. No documents which identify, tend to identify, or may indirectly identify an FBI CHS may be released without prior FBI approval.
- 24. In those instances where a participating agency provides a CHS, the FBI may, at the discretion of the SAC, become solely responsible for the CHS's continued development, operation, and compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.
- 25. The United States Attorney General's Guidelines and FBI policy and procedure for operating FBI CHSs shall apply to all FBI CHSs opened and operated in furtherance of HTCETF investigations. Documentation of, and any payments made to, FBI CHSs shall be in accordance with FBI policy and procedure.
- 26. Operation, documentation, and payment of any CHS opened and operated in furtherance of an HTCETF investigation must be in accordance with the United States Attorney General's Guidelines, regardless of whether the handling agency is an FBI HTCETF participating agency. Documentation of state, county, or local CHSs opened and operated in furtherance of HTCETF investigations shall be maintained at an agreed upon location.

#### C. Reports and Records

- 27. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by HTCETF personnel will be made available for inclusion in the respective investigative agencies' files as appropriate.
- 28. HTCETF reports prepared in cases assigned to HTCETF personnel will be maintained at an FBI approved location; original documents will be maintained by the FBI.
- 29. Records and reports generated in HTCETF cases which are opened and assigned by the HTCETF Supervisor with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for HTCETF.
- 30. HTCETF investigative records maintained at the San Diego Field Office of the FBI will be available to all HTCETF personnel, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.
- 31. All evidence and original tape recordings (audio and video) acquired by the FBI during the course of the HTCETF investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval and chain of custody will be adhered to by HTCETF personnel.
- 32. All HTCETF investigative records will be maintained at an approved FBI location. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies, subject to SSA approval.
- 33. Classified information and/or documents containing information that identifies or tends to identify an FBI CHS shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

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34. The Parties acknowledge that this MOU may provide HTCETF personnel with access to information about U.S. persons which is protected by the Privacy Act of 1974 and/or Executive Order 12333. The Parties expressly agree that all such information will be handled lawfully pursuant to the provisions thereof. The Parties further agree that if this access to information by HTCETF personnel requires a change in privacy compliance documents, those changes will be accomplished prior to access being granted.

#### **INFORMATION SHARING**

- 35. No information possessed by the FBI, to include information derived from informal communications between HTCETF personnel and FBI employees not assigned to the HTCETF, may be disseminated by HTCETF personnel to non-HTCETF personnel without the approval of the HTCETF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the participating agencies that would permit the participating agencies to receive that information directly. Likewise, HTCETF personnel will not provide any participating agency information to the FBI that is not otherwise available to it unless authorized by appropriate participating agency officials.
- 36. Each Party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.
- 37. The FBI is providing access to information from its records with the understanding that in the event the recipient becomes aware of any inaccuracies in the data, the recipient will promptly notify the FBI so that corrective action can be taken. Similarly, if the FBI becomes aware that information it has received pursuant to this MOU is inaccurate, it will notify the contributing Party so that corrective action can be taken.
- 38. Each Party is responsible for ensuring that information it discloses was not knowingly obtained or maintained in violation of any law or policy applicable to the disclosing Party, and that information is only made available to the receiving Party as may be permitted by laws, regulations, policies, or procedures applicable to the disclosing Party.
- 39. Each Party will immediately report to the other Party each instance in which data received from the other Party is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).
- 40. The Parties agree that either or both may audit the handling and maintenance of data in electronic and paper recordkeeping systems to ensure that appropriate security and privacy protections are in place.

#### **PROSECUTIONS**

- 41. HTCETF investigative procedures, whenever practicable, are to conform to the requirements which would allow for either federal or state prosecution.
- 42. A determination will be made on a case-by-case basis whether the prosecution of HTCETF cases will be at the state or federal level. This determination will be based on the evidence obtained and

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- a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the HTCETF.
- 43. In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a HTCETF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities in accordance with all applicable legal limitations.

#### A. Investigative Methods/Evidence

- 44. For cases assigned to an FBI Special Agent or in which FBI CHSs are utilized, the parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance. However, in situations where the investigation will be prosecuted in the State Court where statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by FBI case agents shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.
- 45. In all cases assigned to state, county, or local law enforcement participants, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities as outlined in the Domestic Investigations and Operations Guide to the greatest extent possible. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.
- 46. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policies and procedures of the FBI.

#### **B.** Undercover Operations

47. All HTCETF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. All participating agencies may be requested to enter into an additional agreement if an employee of the participating agency is assigned duties which require the officer to act in an undercover capacity.

#### USE OF LESS-THAN-LETHAL-DEVICES<sup>1</sup>

48. The parent agency of each individual assigned to the HTCETF will ensure that while the individual is participating in FBI-led task force operations in the capacity of a task force officer, task force member, or task force participant, the individual will carry only less-lethal devices that the parent agency has issued to the individual, and that the individual has been trained in accordance with the agency's policies and procedures.

<sup>&</sup>lt;sup>1</sup> Pursuant to Section VIII of the DOJ Less-Than-Lethal Devices Policy dated May 16, 2011, all state/local officers participating in joint task force operations must be made aware of and adhere to the policy and its limits on DOJ officers.

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49. The parent agency of each individual assigned to the HTCETF will ensure that the agency's policies and procedures for use of any less-lethal device that will be carried by the task force officer, task force member, or task force participant are consistent with the DOJ policy statement on the Use of Less-Than-Lethal Devices.<sup>2</sup>

#### **DEADLY FORCE AND SHOOTING INCIDENT POLICIES**

50. HTCETF personnel will follow their own agencies' policies concerning firearms discharge and use of deadly force.

#### **DEPUTATIONS**

- 51. Local and state law enforcement personnel designated to the HTCETF, subject to a limited background inquiry, may be sworn as federally deputized Special Deputy United States Marshals, with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the HTCETF or until the termination of the HTCETF, whichever comes first.
- 52. Deputized HTCETF personnel will be subject to the rules and regulations pertaining to such deputation. Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

#### **VEHICLES**

- 53. In furtherance of this MOU, employees of participating agencies may be permitted to drive FBI owned or leased vehicles for official HTCETF business and only in accordance with applicable FBI rules and regulations, including those outlined in the FBI Government Vehicle Policy Directive (0430D) and the Government Vehicle Policy Implementation Guide (0430PG). The assignment of an FBI owned or leased vehicle to HTCETF personnel will require the execution of a separate Vehicle Use Agreement.
- 54. The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to HTCETF business.
- 55. The FBI and the United States will not be responsible for any tortious act or omission on the part of each participating agency and/or its employees or for any liability resulting from the use of an FBI owned or leased vehicle utilized by HTCETF personnel, except where liability may fall under the

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Less-lethal – When use of force is required, but deadly force may not be appropriate, law enforcement officers may employ less-lethal weapons to gain control of a subject. Less-lethal weapons are designed to induce a subject to submit or comply with directions. These weapons give law enforcement officers the ability to protect the safety of officers, subjects, and the public by temporarily incapacitating subjects. While less-lethal weapons are intended to avoid causing any serious harm or injury to a subject, significant injuries and death can occur from their use.

The term "less-than-lethal" is synonymous with "less-lethal", "non-lethal", "non-deadly", and other terms referring to devices used in situations covered by the DOJ Policy on the Use of Less-Than Lethal Devices. "Less-lethal" is the industry standard and the terminology the FBI has elected to utilize in reference to this policy.

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provisions of the Federal Tort Claims Act (FTCA), as discussed in the Liability Section herein below.

- 56. The FBI and the United States shall not be responsible for any civil liability arising from the use of an FBI owned or leased vehicle by participating agency HTCETF personnel while engaged in any conduct other than their official duties and assignments under this MOU.
- 57. To the extent permitted by applicable law, the participating agencies agree to hold harmless the FBI and the United States, for any claim for property damage or personal injury arising from any use of an FBI owned or leased vehicle by HTCETF personnel which is outside the scope of their official duties and assignments under this MOU.

#### SALARY/OVERTIME COMPENSATION

- 58. The FBI and each participating agency remain responsible for all personnel costs for their HTCETF representatives, including salaries, overtime payments and fringe benefits consistent with their respective agency, except as described in paragraph 59 below.
- 59. Subject to funding availability and legislative authorization, the FBI will reimburse to participating agency the cost of overtime worked by non-federal HTCETF personnel assigned full-time to HTCETF, provided overtime expenses were incurred as a result of HTCETF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and participating agency for full-time employee(s) assigned to HTCETF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable participating agency overtime provisions and shall be subject to the prior approval of appropriate personnel.

#### **PROPERTY AND EQUIPMENT**

60. Property utilized by the HTCETF in connection with authorized investigations and/or operations and in the custody and control and used at the direction of the HTCETF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment. Property damaged or destroyed which was utilized by HTCETF in connection with authorized investigations and/or operations and is in the custody and control and used at the direction of HTCETF, will be the financial responsibility of the agency supplying said property.

#### **FUNDING**

61. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

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#### **FORFEITURES**

- 62. The FBI shall be responsible for processing assets seized for federal forfeiture in conjunction with HTCETF operations.
- 63. Asset forfeitures will be conducted in accordance with federal law, and the rules and regulations set forth by the FBI and DOJ. Forfeitures attributable to HTCETF investigations may be equitably shared with the agencies participating in the HTCETF.

#### **DISPUTE RESOLUTION**

- 64. In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the HTCETF's objectives.
- 65. The participating agencies agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

#### **MEDIA RELEASES**

- 66. All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.
- 67. Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

#### **SELECTION TO HTCETF AND SECURITY CLEARANCES**

- 68. If a participating agency candidate for the HTCETF will require a security clearance, he or she will be contacted by FBI security personnel to begin the background investigation process prior to the assigned start date.
- 69. If, for any reason, the FBI determines that a participating agency candidate is not qualified or eligible to serve on the HTCETF, the participating agency will be so advised and a request will be made for another candidate.
- 70. Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policies and procedures. During the briefing, each candidate will execute non-disclosure agreements (SF-312 and FD-868), as may be necessary or required by the FBI.
- 71. Before receiving unescorted access to FBI space identified as an open storage facility, HTCETF personnel will be required to obtain and maintain a "Top Secret" security clearance. HTCETF personnel will not be allowed unescorted access to FBI space unless they have received a Top Secret security clearance.
- 72. Upon departure from the HTCETF, each individual whose assignment to the HTCETF is completed will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement to which he or she previously agreed.

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#### **LIABILITY**

- 73. The participating agencies acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the HTCETF.
- 74. The participating agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the HTCETF or otherwise relating to the HTCETF. The participating agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the HTCETF remains vested with his or her employing agency. In the event that a civil claim or complaint is brought against a state or local officer assigned to the HTCETF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.
- 75. For the limited purpose of defending against a civil claim arising from alleged negligent or wrongful conduct under common law under the FTCA, 28 U.S.C. § 1346(b), and §§ 2671-2680: An individual assigned to the HTCETF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request to be certified by the Attorney General or his designee as having acted within the scope of federal employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). Upon such certification, the individual will be considered an "employee" of the United States government for the limited purpose of defending the civil claim under the FTCA, and the claim will proceed against the United States as sole defendant. 28 U.S.C. § 2679(d)(2). Once an individual is certified as an employee of the United States for purposes of the FTCA, the United States is substituted for the employee as the sole defendant with respect to any tort claims. Decisions regarding certification of employment under the FTCA are made on a case-by-case basis, and the FBI cannot guarantee such certification to any HTCETF personnel.
- 76. For the limited purpose of defending against a civil claim arising from an alleged violation of the U.S. Constitution pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971): An individual assigned to the HTCETF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request individual-capacity representation by DOJ to defend against the claims. 28 C.F.R. §§ 50.15, 50.16. Any such request for individual-capacity representation must be made in the form of a letter from the individual defendant to the U.S. Attorney General. The letter should be provided to Chief Division Counsel (CDC) for the FBI San Diego Division, who will then coordinate the request with the FBI Office of the General Counsel. In the event of an adverse judgment against the individual, he or she may request indemnification from DOJ. 28 C.F.R. § 50.15(c)(4). Requests for DOJ representation and indemnification are determined by DOJ on a case-by-case basis. The FBI cannot guarantee the United States will provide legal representation or indemnification to any HTCETF personnel.
- 77. Liability for any conduct by HTCETF personnel undertaken outside of the scope of their assigned duties and responsibilities under this MOU shall not be the responsibility of the FBI or the United States and shall be the sole responsibility of the respective employee and/or agency involved.

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#### **DURATION**

- 78. The term of this MOU is for the duration of the HTCETF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.
- 79. Any participating agency may withdraw from the HTCETF at any time by written notification to the SSA with designated oversight for investigative and personnel matters or program manager of the HTCETF at least 30 days prior to withdrawal.
- 80. Upon termination of this MOU, all equipment provided to the HTCETF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any HTCETF participation.

#### **MODIFICATIONS**

**SIGNATORIES** 

- 81. This agreement may be modified at any time by written consent of all involved agencies.
- 82. Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

Special Agent in Charge Federal Bureau of Investigation	Date		
Manuel Rodriguez, Chief of Police NATIONAL CITY POLICE DEPARTMENT	 Date		

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#### FEDERAL BUREAU OF INVESTIGATION

Human Trafficking & Child Exploitation Task force
Cost Reimbursement Agreement

#### HTCETF File No.: 50-SD-C66039

Pursuant to Congressional appropriations, the Federal Bureau of Investigation (FBI) receives authority to pay overtime for police officers assigned to the formalized Human Trafficking & Child Exploitation Task Force (HTCETF), as set forth below, for expenses necessary for detection, investigation, and prosecution of crimes against the United States. It is hereby agreed between the FBI and the National City Police Department (NCPD), located at 1200 National City Blvd, National City, CA 91950, Taxpayer Identification Number: 95-6000749, and Telephone Number: (619) 336-4538, that:

- 1. This Agreement is entered into pursuant to, and as an annex to, the FBI HTCETF Memorandum of Understanding (MOU) signed by the Chief of Police of the National City Police Department on \_\_\_\_\_, and must be read and interpreted in conformity with all terms of that document.
- 2. Commencing upon execution of this Agreement, the FBI will, subject to availability of required funding, reimburse NCPD for overtime payments made to officers assigned to and working full time on HTCETF related matters.
- 3. Requests for reimbursement will be made on a monthly basis and should be forwarded to the FBI San Diego Field Office as soon as practical after the first of the month which follows the month for which reimbursement is requested. Such requests should be forwarded by a Supervisor at NCPD to the FBI HTCETF Squad Supervisor and FBI San Diego Special Agent in Charge for their review, approval, and processing for payment.
- 4. Overtime reimbursement payments from the FBI will be made via electronic funds transfer (EFT) directly to NCPD using the FBI's Unified Financial Management System (UFMS). To facilitate EFT, NCPD must establish an account online in the System for Award Management (SAM) at <a href="https://www.sam.gov">www.sam.gov</a>. Each request for reimbursement will include an invoice number, invoice date, and a taxpayer identification number (TIN). Verification of NCPD banking information is required on an annual basis in order to keep payment information current. For additional information regarding the UFMS and SAM, contact the FBI San Diego Financial Manager.
- 5. Overtime reimbursements will be calculated at the usual rate for which the individual officer's time would be compensated in the absence of this Agreement. However, said reimbursement, per officer, shall not exceed monthly and/or annual limits established annually by the FBI. The limits, calculated using Federal pay tables, will be in effect for the Federal fiscal year running from October 1st of one year through September 30th of the following year, unless changed during the period. The FBI reserves the right to change the reimbursement limits, upward or downward, for subsequent periods based on fiscal priorities and appropriations limits. The FBI will notify NCPD of the applicable annual limits prior to October 1st of each year.
- 6. The number of NCPD Officers / deputies assigned full-time to the HTCETF and entitled to overtime reimbursement by the FBI shall be approved by the FBI in advance of each fiscal year. Based on the needs of the HTCETF, this number may change periodically, upward or downward, as approved in advance by the FBI.

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- 7. Prior to submission of any overtime reimbursement requests, NCPD must prepare an official document setting forth the identity of each officer assigned full-time to the [HTCETF], along with the regular and overtime hourly rates for each officer. Should any officers change during the year, a similar statement must be prepared regarding the new officers prior to submitting any overtime reimbursement requests for the officers. The document should be sent to the San Diego Field Office for FBI review and approval.
- 8. Each request for reimbursement will include the name, rank, identification number, overtime compensation rate, number of reimbursable hours claimed, and the dates of those hours for each officer for whom reimbursement is sought. The request must be accompanied by a certification and signed by an appropriate Supervisor at NCPD that the request has been personally reviewed, the information described in this paragraph is accurate, and the personnel for whom reimbursement is claimed were assigned full-time to the HTCETF.
- 9. Requests for reimbursement must be received by the FBI no later than December 31st of the next fiscal year for which the reimbursement applies. For example, reimbursements for the fiscal year ending September 30, 2017, must be received by the FBI by December 31, 2017. The FBI is not obligated to reimburse any requests received after that time.
- 10. This Agreement is effective upon signatures of the parties and will remain in effect for the duration of NCPD's participation on the HTCETF, contingent upon approval of necessary funding, and unless terminated in accordance with the provisions herein. This Agreement may be modified at any time by written consent of the parties. It may be terminated at any time upon mutual consent of the parties, or unilaterally upon written notice from the terminating party to the other party at least 30 days prior to the termination date.

olgridiones.	
FBI Special Agent Federal Bureau of Investigation	Manuel Rodriguez Chief of Police National City Police Department
Date:	Date:
Financial Manager Federal Bureau of Investigation	
Date:	

Signatorios:

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#### NOTICE OF LIMITS

#### FOR

#### FY 2018 STATE AND LOCAL OVERTIME REIMBURSEMENTS

Subject to the availability of funding and legislative authorization, the FBI may reimburse state and local law enforcement agencies (LEA) for the cost of overtime incurred by officers assigned **full-time** to FBI managed task forces provided the overtime expenses were incurred as a result of task force related activities. Consistent with regulation and policy, a separate Cost Reimbursement Agreement (CRA) must be executed between the FBI and the LEA **and** an underlying Memorandum of Understanding (MOU) must exist in support of the task force relationship.

For **Fiscal Year 2018**, the maximum limits for reimbursements under these CRAs are \$1,503.50 per month and \$18,042 per year for each officer assigned **full-time** to the task force. These limits are effective for overtime worked on or after October 1, 2017.

These reimbursements are limited to eligible officers' direct overtime salary expenses and shall not include any costs associated with the LEA's indirect expenses or officers' benefits such as retirement, social security, and similar related expenses.

FBI field offices and state and local law enforcement agencies may process overtime reimbursement requests under formally executed CRAs in accordance with the authority of this notice. This notice is issued unilaterally by the FBI's Budget Officer and does not require formal acceptance and signature by FBI field offices and state and local law enforcement agencies.

Mark H. Reynolds

Budget Officer

Federal Bureau of Investigation

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE CHIEF OF POLICE TO EXECUTE A MEMORANDUM OF UNDERSTANDING AND A COST REIMBURSEMENT AGREEMENT WITH THE FEDERAL BUREAU OF INVESTIGATION (FBI) FOR PARTICIPATION IN OPERATIONS WITH THE HUMAN TRAFFICKING AND CHILD EXPLOITATION TASK FORCE (HTCETF); AUTHORIZING THE ACCEPTANCE OF HTCETF FUNDS OF UP TO \$18,042 PER FISCAL YEAR; AND AUTHORIZING THE ESTABLISHMENT OF A POLICE DEPARTMENT GRANTS FUND APPROPRIATION AND CORRESPONDING REVENUE BUDGET FOR THE FUNDS

WHEREAS, the Human Trafficking and Child Exploitation Task Force ("HTCETF") conducts criminal investigations to identify and target criminals who engage in sex trafficking, forced labor trafficking, and domestic servitude, as well as rescue child victims and reduce the vulnerability of children to sexual exploitation and abuse; and

WHEREAS, the HTCETF enhances the effectiveness of the federal, State, and local law enforcement resources through well-coordinated information sharing, investigative, and prosecutorial avenues; and

WHEREAS, for the National City Police Department ("NCPD") to participate in the HTCETF the City is required to enter into a Memorandum of Understanding ("MOU") with the Federal Bureau of Investigation ("FBI") to allow a National City Police officer to participate in joint operations with HTCETF; and

WHEREAS, the MOU requires each participating agency to be responsible for providing its respective personnel that participate in operations to the HTCETF with salaries, benefits and overtime; and

WHEREAS, through the execution of a Cost Recovery Agreement, overtime expended on federal criminal prosecutions will be reimbursed by HTCETF for qualifying cases up to the amount of \$18,042 per year, as set forth by the Salary/Overtime Compensation section of the MOU; and

WHEREAS, the duration of the MOU is ongoing, contingent to funding for the program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the Chief of Police to execute a Memorandum of Understanding with the FBI for a National City Police officer to participate in operations with the Human Trafficking and Child Exploitation Task Force ("HTCETF").

BE IT FURTHER RESOLVED that the City Council authorizes the acceptance of the reimbursable grant funds in the amount of \$18,042 per fiscal year.

BE IT FURTHER RESOLVED that the City Council authorizes the establishment of an appropriation and corresponding revenue budget for overtime for the not to exceed amount of \$18,042 per fiscal year.

[Signature Page to Follow]

## PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City; 1) authorizing the acceptance of a grant award in the amount of \$100,000 from the Office of Traffic Safety (OTS) for the Selective Traffic Enforcement Program (STEP) grant 2019 to conduct DUI an

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018	AGENDA ITEM NO.:		
ITEM TITLE: Resolution of the City Council of the City of National in the amount of \$100,000 from the Office of Traffic S Program (STEP) grant 2019 to conduct DUI and traff Department; 2) authorizing the Chief of Police to exe and 3) authorizing the establishment of fund appropri	Safety (OTS) for the Selective Traffic Enforcement fic related enforcement operations for the Police ocute the Agreement of the award of the grant funds		
PREPARED BY: Jeffrey Meeks, Sergeant	DEPARTMENT: Police		
PHONE: (619) 336-4446	APPROVED BY:		
EXPLANATION:	Mart Colons		
On June 21 <sup>st</sup> , 2018 the National City Police Department funds from the Office of Traffic Safety (OTS). The grad October 1 <sup>st</sup> , 2018. This award is a based upon a gran for the purpose of reducing the number of persons kinvolved collisions; to reduce fatal and injury hit and right killed or injured; and to reduce fatal and injury collision movements and unsafe speeds were a factor.	ant was approved for a one year period beginning on proposal submitted to the Office of Traffic safety lled or injured in traffic collisions and alcohol run collisions; to reduce the amount of motorcyclists ons at intersections, where unsafe turning		
The grant funds allocated to accomplish these goals DUI/DL checkpoints, DUI saturation patrols, and enforced violators, distracted drivers and motorcycle enforcem. There is also funding allowing for Traffic Safety presentations.	preement operations regarding speed, red light ent within the city limits of the City of National City. entations and purchase of learning materials.		
FINANCIAL STATEMENT:	APPROVED: FINANCE		
ACCOUNT NO. 290-11665-3498 (Other Federal Grants) \$100,000 290-411-665-1* (Overtime & related accounts) - \$100,000	APPROVED: MIS		
No matching funds required			
ENVIRONMENTAL REVIEW:			
ORDINANCE: INTRODUCTION FINAL ADOPT	ION _		
STAFF RECOMMENDATION: Adopt the resolution.			
BOARD / COMMISSION RECOMMENDATION:			
ATTACHMENTS:			

- 1. Attachment 1
- 2. Attachment 2
- 3. Attachment 3

1. GRANT TITLE	
Selective Traffic Enforcement Program (STEP)	
2. Name of Agency	3. Grant Period
National City Police Department	
4. AGENCY UNIT TO ADMINISTER GRANT	From: 10/01/2018
National City Police Department	To: 09/30/2019
5. GRANT DESCRIPTION	
Best practice strategies will be conducted to reduce the num	her of persons killed and injured in crashes involving
alcohol and other primary collision factors. The funded strat	egies may include impaired driving enforcement
enforcement operations focusing on primary collision factor	s distracted driving night-time seat belt enforcement.
special enforcement operations encouraging motorcycle safe	ety enforcement and nublic awareness in areas with a high
number of bicycle and pedestrian collisions, and educationa	programs. These strategies are designed to earn media
attention thus enhancing the overall deterrent effect.	programs. These strategies are designed to earn media
	ll Not Exceed: \$100,000.00
6. Federal Funds Allocated Under This Agreement Sha	
	ith the terms and conditions of the following which are by this
reference made a part of the Agreement:  Schedule A – Problem Statement, Goals and Objectives a	nd Mathad of Dragadura
at the built in the control bull bull at	
and the control of the state of	ve (ii applicable)
	war and walk a west of the agreement of if attacked beneto
*Items shown with an asterisk (*), are hereby incorporated by refe	
These documents can be viewed at the OTS home web page	
We, the officials named below, hereby swear under penalty of p	erjury under the laws of the State of California that we are duly
authorized to legally bind the Grant recipient to the above descri	
IN WITNESS WHEREOF, this Agreement has been executed by	he parties hereto.
8. Approval Signatures	
A. Grant Director	B. AUTHORIZING OFFICIAL OF AGENCY
NAME: PHONE;	Name: Phone: Title: Fax:
TITLE: FAX: Address:	ADDRESS:
ADDIGSS.	, portion,
EMAIL:	Email:
}	
	(2)
(Signature) (Date)	(Signature) (Date)
C. FISCAL OR ACCOUNTING OFFICAL	D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY
Name: Phone: Title: Fax:	NAME: Rhonda L. Craft PHONE: (916) 509-3030   TITLE: Director FAX: (916) 509-3055
Address:	Address: 2208 Kausen Drive, Suite 300
,	Elk Grove, CA 95758
Email:	EMAIL: rhonda.craft@ots.ca.gov
(Signature) (Date)	(Signature) (Date)
E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY	9. DUNS INFORMATION
Nлме; Carolyn Vu	DUNS #: 072494073
Address: 2208 Kausen Drive, Suite 300	REGISTERED ADDRESS: 1243 National City Blvd
Elk Grove, CA 95758	CITY:National City ZIP+4:91950-4301
	<b>*</b>

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10. PROJEC	TED EXPEN	DITURES					
FUND	CFDA	ITEM/APPROPRIA	rion	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
	İ	<u> </u>			AGREEMEN' TOTAL	<u> </u> Γ	\$100,000.00
I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.			AMOUNT ENCUMBERED BY THIS DOCUMENT \$100,000.00				
			PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$ 0.00				
OTS ACCOUNTING OFFICER'S SIGNATURE DATE SIGNED		TOTAL AMOUNT ENCUMBERED TO DATE					
		SIGN	ענו	\$100,000.00			

#### 1. PROBLEM STATEMENT

The National City Police Department has seen an increase of fatal traffic collisions. There were none in 2015, then two in 2016 and now for the calendar year of 2017 there were six, which was an increase of 300%. The collision data for 2016 indicates there were 185 injury collisions compared to 184 in 2015, so the difference was minimal. This can be attributed to the enforcement activities enabled by the OTS grant and the opportunity to place more pro active police officers on the streets of National City with the focus on traffic safety. There was a 31% increase in traffic citations and a 122% increase in written warnings between 2016 and 2017, which shows a direct correlation with more proactive enforcement activity. The data also shows there were 1,611 citations issued in 2017 compared to 1,256 cites issued in 2016, for a total of 355 more citations. DUI arrests have continued to increase as we still place more officers in a proactive DUI enforcement role, rather than reactive to collisions. In 2016 there were 149 DUI arrests which increased to 177 in 2017, an increase of 19%. However the City of National City also saw a 12% increase in traffic collisions, including the 6 fatalities already mentioned. This shows the need for a continued aggressive approach to traffic and DUI enforcement in order to maintain our commitment to keeping the roadways safe.

### 2. PERFORMANCE MEASURES

#### A. Goals:

- 1. Reduce the number of persons killed in traffic collisions.
- 2. Reduce the number of persons injured in traffic collisions.
- 3. Reduce the number of pedestrians killed in traffic collisions.
- 4. Reduce the number of pedestrians injured in traffic collisions.
- 5. Reduce the number of bicyclists killed in traffic collisions.
- 6. Reduce the number of bicyclists injured in traffic collisions.
- 7. Reduce the number of persons killed in alcohol-involved collisions.
- 8. Reduce the number of persons injured in alcohol-involved collisions.
- 9. Reduce the number of persons killed in drug-involved collisions.
- 10. Reduce the number of persons injured in drug-involved collisions.
- 11. Reduce the number of persons killed in alcohol/drug combo-involved collisions.
- 12. Reduce the number of persons injured in alcohol/drug combo-involved collisions.
- 13. Reduce the number of motorcyclists killed in traffic collisions.
- 14. Reduce the number of motorcyclists injured in traffic collisions.
- 15. Reduce hit & run fatal collisions.
- 16. Reduce hit & run injury collisions.
- 17. Reduce nighttime (2100 0259 hours) fatal collisions.
- 18. Reduce nighttime (2100 0259 hours) injury collisions.

В.	Objectives:	Target Number
1.	Issue a press release announcing the kick-off of the grant by November 15. The kick-off	1
	press releases and media advisories, alerts, and materials must be emailed to the OTS	]
	Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, for	
	approval 14 days prior to the issuance date of the release.	
2.	Participate and report data (as required) in the following campaigns, National Walk to	10
	School Day, NHTSA Winter & Summer Mobilization, National Bicycle Safety Month,	
	National Click it or Ticket Mobilization, National Teen Driver Safety Week, National	
	Distracted Driving Awareness Month, National Motorcycle Safety Month, National Child	
	Passenger Safety Week, and California's Pedestrian Safety Month.	
3.	Develop (by December 31) and/or maintain a "HOT Sheet" program to notify patrol and	12
	traffic officers to be on the lookout for identified repeat DUI offenders with a suspended or	
	revoked license as a result of DUI convictions. Updated HOT sheets should be distributed	
	to patrol and traffic officers monthly.	
4.	Send law enforcement personnel to the NHTSA Standardized Field Sobriety Testing	3
	(SFST) (minimum 16 hours) POST-certified training.	
5.	Send law enforcement personnel to the NHTSA Advanced Roadside Impaired Driving	3
	Enforcement (ARIDE) 16 hour POST-certified training.	
6.	Send law enforcement personnel to the Drug Recognition Expert (DRE) training.	1
7.	Send law enforcement personnel to the DRE Recertification training.	2

8. Conduct DUI/DL Checkpoints. A minimum of 1 checkpoint should be conducted during the NHTSA Winter Mobilization and 1 during the Summer Mobilization. To enhance the overall deterrent effect and promote high visibility, it is recommended the grantee issue an advance press release and conduct social media activity for each checkpoint. For combination DUI/DL checkpoints, departments should issue press releases that mention DL's will be checked at the DUI/DL checkpoint. Signs for DUI/DL checkpoints should read "DUI/Driver's License Checkpoint Ahead." OTS does not fund or support independent DL checkpoints. Only on an exception basis and with OTS pre-approval will OTS fund checkpoints that begin prior to 1800 hours. When possible, DUI/DL Checkpoint screeners should be DRE- or ARIDE-trained.	4
Conduct DUI Saturation Patrol operation(s).	20
10. Conduct Traffic Enforcement operation(s), including but not limited to, primary collision factor violations.	14
11. Conduct highly publicized Distracted Driving enforcement operation(s) targeting drivers using hand held cell phones and texting.	4
12. Conduct highly publicized Motorcycle Safety enforcement operation(s) in areas or during events with a high number of motorcycle incidents or collisions resulting from unsafe speed, DUI, following too closely, unsafe lane changes, improper turning, and other primary collision factor violations by motorcyclists and other drivers.	2
13. Conduct highly publicized pedestrian and/or bicycle enforcement operation(s) in areas or during events with a high number of pedestrian and/or bicycle collisions resulting from violations made by pedestrians, bicyclists, and drivers.	4
14. Conduct Traffic Safety educational presentation(s) with an effort to reach community members. Note: Presentation(s) may include topics such as distracted driving, DUI, speed, bicycle and pedestrian safety, seat belts and child passenger safety.	4

#### 3. METHOD OF PROCEDURE

#### A. Phase 1 - Program Preparation (1st Quarter of Grant Year)

- The department will develop operational plans to implement the "best practice" strategies outlined in the objectives section.
- All training needed to implement the program should be conducted this quarter.
- All grant related purchases needed to implement the program should be made this quarter.
- In order to develop/maintain the "Hot Sheets," research will be conducted to identify the "worst of the worst" repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. The Hot Sheets may include the driver's name, last known address, DOB, description, current license status, and the number of times suspended or revoked for DUI. Hot Sheets should be updated and distributed to traffic and patrol officers at least monthly.
- Implementation of the STEP grant activities will be accomplished by deploying personnel at high collision locations. Media Requirements
- Issue a press release announcing the kick-off of the grant by November 15, but no earlier than October 1. If unable to meet the November 15 date, communicate reasons to your OTS Coordinator. The kick-off press releases and any related media advisories, alerts, and materials must be emailed for approval to the OTS Public Information Officer at <a href="mailto:pio@ots.ca.gov">pio@ots.ca.gov</a>, and copied to your OTS Coordinator, 14 days prior to the issuance date of the release.

#### B. Phase 2 - Program Operations (Throughout Grant Year)

- The department will work to create media opportunities throughout the grant period to call attention to the innovative program strategies and outcomes. Media Requirements
- Send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at <a href="mailto:pio@ots.ca.gov">pio@ots.ca.gov</a>, with a copy to your OTS Coordinator. The following requirements are for grant-related activities and are different from those regarding any grant kick-off release or announcement.
- 1. If an OTS-supplied, template-based press release is used, there is no need for pre-approval, however, the OTS PIO and Coordinator should be copied when at the same time as the release is distributed to the press.
- 2. If an OTS-supplied template is not used, or is substantially changed, a draft press release shall be sent to the OTS PIO for approval. Optimum lead-time would be 10 days prior to the release distribution date, but should be no less than 5 working days prior to the release distribution date.

- 3. Press releases reporting the immediate and time-valued results of grant activities such as enforcement operations are exempt from the recommended advance approval process, but still should be copied to the OTS PIO and Coordinator when the release is distributed to the press.
- 4. Activities such as warrant or probation sweeps and court stings that could be compromised by advanced publicity are exempt from pre-publicity, but are encouraged to offer embargoed media coverage and to report the results.
- Use the following standard language in all press, media, and printed materials: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Email the OTS PIO at <u>pio@ots.ca.gov</u> and copy your OTS Coordinator at least 30 days in advance, a short description of any significant grant-related traffic safety event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.
- Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the OTS PIO at <u>pio@ots.ca.gov</u> and copy your OTS Coordinator for approval 14 days prior to the production or duplication.
- Space permitting, include the OTS logo, on grant-funded print materials; consult your OTS Coordinator for specifics and format-appropriate logos.
- Contact the OTS PIO or your OTS Coordinator, sufficiently far enough in advance of need, for consultation when deviation from any of the above requirements might be contemplated

#### C. Phase 3 - Data Collection & Reporting (Throughout Grant Year)

- Invoice Claims (due January 30, April 30, July 30, and October 30)
- Quarterly Performance Reports (due January 30, April 30, July 30, and October 30)
  - Collect and report quarterly, appropriate data that supports the progress of goals and objectives.
  - Provide a brief list of activity conducted, procurement of grant-funded items, and significant media activities. Include status of grant-funded personnel, status of contracts, challenges, or special accomplishments.
  - Provide a brief summary of quarterly accomplishments and explanations for objectives not completed or plans for upcoming activities.
  - Collect, analyze and report statistical data relating to the grant goals and objectives.

#### 4. METHOD OF EVALUATION

Using the data compiled during the grant, the Grant Director will complete the "Final Evaluation" section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant's accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

#### 5. ADMINISTRATIVE SUPPORT

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

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Fund Number	CATALOG NUMBER (CFDA)	Fund Description	TOTAL AMOUNT
164AL-19	20.608	Minimum Penalties for Repeat	\$70,000.00
		Offenders for Driving While	
		Intoxicated	
402PT-19	20.600	State and Community Highway	\$30,000.00
		Safety	

COST CATEGORY	CFDA	TOTAL COST
		TO GRANT
A. PERSONNEL COSTS	<u> </u>	
Positions and Salaries		
Full-Time		\$0.00
Overtime		φυ.υι
DUI/DL Checkpoints	20.608	\$29,600.00
DUI Saturation Patrols	20.608	\$18,000.00
San Diego DUI Task Force	20.608	\$10,800.00
Benefits @ 11.18%	20.608	\$6,529.00
Traffic Enforcement	20.600	\$12,600.00
Distracted Driving	20.600	\$3,600.00
Motorcycle Safety	20.600	\$1,800.00
Pedestrian and Bicycle Enforcement	20.600	\$3,600.00
Traffic Safety Education	20,600	\$1,068.00
Benefits @ 11.18%	20.600	\$2,534.00
<u>Part-Time</u>		
		\$0.00
Category Sub-Total		\$90,131.00
B. TRAVEL EXPENSES		
In State Travel	20.600	\$2,798,00
		\$0.00
Category Sub-Total		\$2,798.00
C. CONTRACTUAL SERVICES		
		\$0.00
Category Sub-Total		\$0.00
D. EQUIPMENT		
		\$0.00
Category Sub-Total		\$0.00
E. OTHER DIRECT COSTS		-
Educational Materials	20.600	\$2,000.00
DUI Checkpoint Supplies	20.608	\$5,071.00
Category Sub-Total		\$7,071.00
F. INDIRECT COSTS		
		\$0.00
Category Sub-Total		\$0.00
GRANT TOTAL		\$100,000.00

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Schedule B-1

BUDGET NARRATIVE	
PERSONNEL COSTS  DUI/DL Checkpoints - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	QUANTITY 4
DUI Saturation Patrols - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	20
San Diego DUI Task Force - Overtime for grant funded law enforcement operations by appropriate staff to conduct operations within the County as part of a countywide task force with other law enforcement agencies.	12
Benefits @ 11.18% - Medicare 1.45 Workers Comp 9.73	1
Traffic Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	14
Distracted Driving - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	4
Motorcycle Safety - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	2
Pedestrian and Bicycle Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	4
Traffic Safety Education - Overtime for grant funded traffic safety presentations or campaigns conducted by appropriate department personnel.	4
Benefits @ 11.18% - Medicare 1.45 Workers Comp 9.73	1
TRAVEL EXPENSES In State Travel - Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and objectives and/or traffic safety. Local mileage for grant activities and meetings is included. Anticipated travel may include the Governor's Highway Safety Association conference and the annual International Association of Chiefs of Police DRE conference which are both scheduled for Anaheim. All conferences, seminars or training not specifically identified in the Budget Narrative must be approved by OTS. All travel claimed must be at the agency approved rate. Per Diem may not be claimed for meals provided at conferences when registration fees are paid with OTS grant funds.	1
CONTRACTUAL SERVICES	
EQUIPMENT	
OTHER DIRECT COSTS  Educational Materials - costs of purchasing, developing or printing brochures, pamphlets, fliers, coloring books, posters, signs, and banners associated with grant activities, and traffic safety conference and training materials. Items shall include a traffic safety message and if space is available the OTS ogo. Additional items may be purchased if approved by OTS.	1

DUI Checkpoint Supplies - on-scene supplies needed to conduct sobriety checkpoints. Costs may include 28" traffic cones, MUTCD compliant traffic signs, MUTCD compliant high visibility vests (maximum of 10), traffic counters (maximum of 2), generator, gas for generators, lighting, reflective banners, electronic flares, PAS device supplies, heater, propane for heaters, fan, anti-fatigue mats, and canopies. Additional items may be purchased if approved by OTS. The cost of food and beverages will not be reimbursed.	1
Indirect Costs	
-	

#### STATEMENTS/DISCLAIMERS

There will be no program income generated from this grant.

Nothing in this "agreement" shall be interpreted as a requirement, formal or informal, that a particular law enforcement officer issue a specified or predetermined number of citations in pursuance of the goals and objectives here under.

## CERTIFICATIONS AND ASSURANCES HIGHWAY SAFETY GRANTS (23 U.S.C. CHAPTER 4 AND SEC. 1906, Pub. L. 109-59, AS AMENDED)

Failure to comply with applicable Federal statutes, regulations, and directives may subject Grantee Agency officials to civil or criminal penalties and/or place the State in a high-risk grantee status in accordance with 49 CFR §18.12.

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended
- 49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR Part 1300—Uniform Procedures for State Highway Safety Grant Programs

#### NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

#### The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all
  applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts,
  documents, information, facilities, and staff, and to cooperate and comply with any program or compliance
  reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination
  Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

"During the performance of this contract/funding agreement, the contractor/funding recipient agrees-

- a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding
  - recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- e. To insert this clause, including paragraphs (a) through (e), in every subcontract and sub agreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

#### POLITICAL ACTIVITY (HATCH ACT)

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

#### CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- 3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

#### CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

#### Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

- 2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
- 4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5. The terms covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- 6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- 7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
- 8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).
- 9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

### Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

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- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### Instructions for Lower Tier Participant Certification

- 1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
- 2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- 3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4. The terms covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- 5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- 6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
- 7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).
- 8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

- 1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
- 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### BUY AMERICA ACT

Transportation.

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of

#### PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

#### LAW ENFORCEMENT AGENCIES

All subrecipient law enforcement agencies shall comply with California law regarding profiling. Penal Code section 13519.4, subdivision (e), defines "racial profiling" as the "practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped." Then, subdivision (f) of that section goes on to provide, "A law enforcement officer shall not engage in racial profiling."

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE ACCEPTANCE OF A GRANT AWARD IN THE AMOUNT OF \$100,000 FROM THE OFFICE OF TRAFFIC SAFETY (OTS) FOR THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT 2019 TO CONDUCT DUI AND TRAFFIC RELATED ENFORCEMENT OPERATIONS FOR THE POLICE DEPARTMENT, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE AGREEMENT FOR THE AWARD OF THE GRANT FUNDS AND AUTHORIZING THE ESTABLISHMENT OF A FUND APPROPRIATIONS AND A CORRESPONDING REVENUE BUDGET

WHEREAS, on June 21, 2018, the National City Police Department was approved to receive \$100,000 in grant funds from the Office of Traffic Safety for a one-year period beginning October 1, 2018; and

WHEREAS, the award is based upon a grant proposal submitted to the Office of Traffic Safety ("OTS") for the purpose of reducing the number of persons killed or injured in traffic collisions and alcohol involved collisions; to reduce fatal and injury hit and run collisions; to reduce the amount of motorcyclists killed or injured; and to reduce fatal and injury collisions at intersections, where unsafe turning movements and unsafe speeds were a factor; and

WHEREAS, the grant funds allocated to accomplish these goals will be used to fund overtime operations such as DUI/DL checkpoints, DUI saturation patrols, and enforcement operations regarding speed, red light violators, distracted drivers and motorcycle enforcement within the city limits of National City, as well as Traffic Safety presentations and the purchase of learning materials.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the acceptance of a grant award in the amount of \$100,000 from the Office of Traffic Safety (OTS) for the Selective Traffic Enforcement Program (STEP) grant 2019 to conduct DUI and traffic related enforcement operations, as well as Traffic Safety presentations and purchase of learning materials for the Police Department.

BE IT FURTHER RESOLVED that the City Council authorizes the Chief of Police to execute the Agreement of the award of the grant funds.

BE IT FURTHER RESOLVED that the City Council authorizes the establishment of fund appropriations and corresponding revenue budget.

PASSED and ADOPTED this 24th day of July, 2018.

	Ron Morrison, Mayor
ATTEST:	APPROVED AS TO FORM:
Michael R. Dalla, City Clerk	Angil P. Morris-Jones City Attorney

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City waiving the formal bid process pursuant to National City Municipal Code section 2.60.220, subsection (B), sole source procurement and authorizing the Mayor to execute the Agreement with Thermo Sc

#### CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: AGENDA ITEM NO. July 24, 2018

#### ITEM TITLE:

Resolution of the City Council of the City of National City waiving the formal bid process pursuant to National City Municipal Code section 2.60.220, subsection (B), sole source procurement and authorizing the Mayor to execute the Agreement with Thermo Scientific Portable Analytical Instruments, Inc., for the not to exceed amount of \$61,896.15 for the Police Department's purchase of two (2) TruNarc chemical identification systems, and a 5-year warranty on each machine.

**DEPARTMENT:** Police Department PREPARED BY: Lieutenant Graham Young APPROVED BY:

PHONE: 336-4514

#### EXPLANATION:

The funds to purchase the TruNarc machines, warranties and training will come from the FISCAL Year 2016/2017 Citizen's Option for Public Safety (COPS) program funds which were previously accepted on March 1, 2016 pursuant to City Council resolution # 2016-23. A portion of the COPS program funds have been committed for the purchase of the two (2) TruNarc chemical identification systems for the police department. See attached Police Staff Report.

FINANCIAL ST	ATEMENT.		AFFROVED.	Tinance
ACCOUNT NO.	Expense Account	208-411 - 918 - 518 - 0000	APPROVED:	MIS
The grant awar	ds \$114,618.25 ove	r a one-year grant period. No r	matching City funds	are required.
<b>ENVIRONMEN</b>	TAL REVIEW:			

EINIANCIAL CTATEMENT.

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

#### STAFF RECOMMENDATION:

Approve Resolution.

#### BOARD / COMMISSION RECOMMENDATION:

N/A

#### ATTACHMENTS:

Staff Report Sole Source Letter Quote Resolution



Thermo Scientific Portable Analytical Instruments, Inc.

2 Radcliff Rd.

Tewksbury, MA 01876

978-657-5555 phone

978-657-5921 fax

7/7/2015

RE: Request for Sole Service / Sole Brand Justification

To whom it may concern,

The purpose of this letter is to provide additional justification for why Thermo Scientific Portable Analytical Instruments Inc. ("Manufacturer") is the sole source service provider for its Thermo Scientific<sup>TM</sup> handheld chemical analyzers ("Safety and Security Products"). Such Safety and Security Products deliver rapid, field-based identification of unknown chemicals, explosives, and chemical weapons, as well as narcotics directly from within the hazard zone and provide specific, actionable data—enabling first responders, national security, and military organizations to act quickly and decisively.

Thermo Scientific Portable Analytical Instruments Inc. is the sole manufacturer of the FirstDefender RMX, RM, TruDefender FTX, FTXi, FT, FTi, Gemini and TruNarc from its sole manufacturing location at 2 Radcliff Rd Tewksbury, Massachusetts USA. These devices utilize the proprietary chemometrics and DecisionEngine 2.0 MX analysis software also produced solely by Manufacturer. No other device of this kind on the market can make use of this software as it would be a violation of intellectual property protections held by Manufacturer. Additionally, Manufacturer has developed a rugged handheld chemical identification system for solids and liquids that uses both FTIR and Raman technologies known as Gemini. Gemini is the first and only handheld that offers both Raman & FTIR technologies as well as scan delay for both Raman & FTIR.

Due to their mission critical applications Manufacturer utilizes the expertise of its trained technicians and engineering staff to perform all necessary repairs. Additionally, the technicians must utilize proprietary software, intellectual property (technical documentation), calibration files and algorithms, as well as specialty tooling designed by Manufacturer in order to properly repair the Safety and Security Products in accordance with published specifications. For those reasons, coupled with complexity and overall safety, Manufacturer, is the sole service provider for our Safety and Security Products possessing unique qualifications and/or specialized capabilities or expertise that is not available in the marketplace.

Jason P. Wagstaff

Thermo Scientific Portable Analytical Instruments Inc.

Government Contracts Manager

Thermo Fisher Scientific



#### NA TIONAL CITY POLICE DEPARTMENT

Date: July 12, 2018

TO: City Council of the City of National

FROM: Graham Young, Police Lieutenant

SUBJECT: Resolution of the City Council of the City of National City waiving the

formal bid process pursuant to National City Municipal Code section 2.60.220, subsection (B), sole source procurement and authorizing the Mayor to execute the an Agreement with Thermo Scientific Portable Analytical Instruments, Inc., for the not to exceed amount of \$61,896.15 for the Police Department's purchase of two (2) TruNarc chemical

identification system, and a 5 year warranty for both units.

#### SUMMARY:

The police department requests authorization to purchase a two (2) TruNarc drug analysis machines, which includes warranties. It is recommended the City Council approve the Resolution of the City Council of the City of National City authorizing the City Council to waive the formal bid process pursuant to National City Municipal Code (NCMC) section 2.60.220, subsection (B) (sole source) for the purchase of two (2) TruNarc chemical identification system and warranties for both units.

#### BACKGROUND:

On March 1, 2016, the City Council of the City of National City adopted a resolution (#2016-23) ratifying the acceptance of \$100,00.00 in grant money disbursement from the FISCAL Year 2016/2017 Citizen's Option for Public Safety (COPS) program funds.

The purposes of purchasing the TruNarc chemical identification system is to reduce the risk of fentanyl exposure by not having to open packaging of a chemical substance for testing.

Exposure Risks and Treatment Due to their hazardous nature, fentanyl and fentanyl-related substances pose a significant threat to law enforcement personnel and to other first responders, including fire and emergency medical personnel. As matter of reference it has been determined that it would only take 2-3 milligrams of fentanyl to induce respiratory depression, arrest and possibly death (see photo of penny). When visually compared, 2 to 3 milligrams of fentanyl is about the same as five to seven individual grains of table salt.

The TruNarc chemical identification system, a handheld narcotics analyzer, the accuracy and reliability of a narcotics lab are available anywhere you go. Narcotics, stimulants, depressants, hallucinogens and analgesics are easily identified using lab-proven Raman spectroscopy. The officer does not have to open any packages containing chemicals, a laser identifies the molecular structure of the chemical through any opaque or clear container, drastically reducing the risk of exposure.

The police department assessed the specific needs of the department to house and utilize a TruNarc chemical identification system. With these specific needs in mind, the police department searched for a chemical identification system that would meet the training needs of the department. The police department identified the Thermo Scientific Portable Analytical Instruments, Inc. TruNarc chemical identification system as the only product on the market capable of meeting the National City Police Department's needs.

#### PROCUREMENT PROCESS AND SOLE SOURCE BASIS:

The Police Department is requesting to waive the competitive formal bid requirement pursuant to National City Municipal Code (NCMC) 2.60.220(B). Sole source procurements may be used "when there is only one source from which a particular commodity is available and there is no adequate substitute." In addition, it may be used when "it is clear that competitive bidding will not produce any competitive advantage or would be impractical or not meet any urgent procurement need." The Police Department staff recommends the purchase of the TruNarc drug analysis machines from the Thermo Scientific Portable Analytical Instruments, Inc., which will meet the specific needs of the Police Department which are:

- Device is lightweight and easy to use;
- Immediate results; Eliminates need for backlogged and costly lab processing
- Detects compounded and new "designer", bath salts and synthetic drugs;
- Can be used in addition to drug testing kit for presumptive testing;
- Nonintrusive. The chemical test does not require contact, ideal for officer safety;

- Reduces time for Criminal Case Resolutions;
- Police K-9 Dog Drug Screeners are very costly compared to the TruNarc chemical identification system.

See "Exhibit B". Sole Source Letter from TruNarc drug analysis machines from the Thermo Scientific Portable Analytical Instruments, Inc. functionality.

#### **FISCAL IMPACT:**

The cost of the TruNarc drug analysis machines from the Thermo Scientific Portable Analytical Instruments, Inc., including warrantees, sales tax, and on-site training is \$61,896.15. FISCAL Year 2016/2017 Citizen's Option for Public Safety (COPS) program funds which were previously accepted on March 1, 2016 pursuant to City Council resolution # 2016-23.

#### **ENVIRONMENTAL IMPACT:**

Not Applicable

#### BOARD/COMMISSION RECOMMENDATION:

Notapplicable.

#### ATTACHMENTS:

Attachment B: Sole Source Letter from Thermo Scientific Portable Analytical Instruments. Inc.

National City Police Department 1200 National ClfJl Boulevard National City, CA 91950 (619) 336-4511/FAX (619) 336-4525 Jyww.nlltionolcitypd.org



Part of Thermo Fisher Scientific

To: GYOUNG@NATIONALCITYCA.GOV

Date: 07/11/2018

Message: HELLO,

YOUR SALES REP, GENO FERRERA, ASKED THAT I SEND YOU THIS UPDATED

TRUNARC QUOTE.

THANK YOU.

	Sales Q	uotation	
*Quote Nbr Creation Date 8192-2814-26 07/11/2018		Due Date	Page
			1 of 1
Payment	Terms	Delivery Terms	
NET 30	DAYS	DEST	
Vali	d To	Prepared By	
11/08	/2018	FALCETTONI, GINA	
Customer Reference		Sales Representative	
TRUNARC		EUGENIO FERRERA	
To place an order Ph: 800-226-4732		Fx: 866-897-9946	
Submitted To:		Customer Account:	073876-001
LT. GRAHAM YOUNG GYOUNG@NATIONALCITYCA.GOV 619-336-4514		NATIONAL CITY POL 1200 NATIONAL CIT' NATIONAL CITY CA ATTN: GYOUNG@NATIONA	Y BLVD 91950



FISHER SAFETY 3970 JOHNS CREEK COURT SUITE 500 SUWANEE GA 30024-1297

Review and Place Order

Please note: This link initiates order review / placement through fishersci.com

## \*Please reference this Quote Number on all correspondence.

Don't have a profile? Register on fishersci.com

For complete Terms and Conditions, please click here.

Nbr	Qty	UN	Catalog Number	Description	Unit Price	Extended Price
1	1	EA	No Image Available. Hazardous This item is	TRUNARC UNLMD WRNTY5YR TRAIN12 alog # 800-01045-01 Waterial being sold as 1 per each alog Number 17720429	28,948.57	28,948.57
2	1	EA	No Image Available. Hazardous This item is	TRUNARC UNLMD WRNTY 5 YRS alog # 800-01015-01 Material being sold as 1 per each alog Number 17720428	27,005.71	27,005.71
3	2	EA	to Image Available. Hazardous This item is	TRUNARC SOL KIT TYPE H-100 alog # 810-01462-01 Material being sold as 1 per each alog Number 17720422	480.86	961.72
			HILTS:	RCHANDISE TOTAL mated Sales Tax AL		56,916.00 4,980.15 61,896.15

Shipping and handling fees are calculated at the time of shipment

#### NOTES:

We now offer highly competitive financing with low monthly payments. Please contact your local sales representative for more information.

Tell us about your recent customer service experience by completing a short survey. This should take no longer than three minutes. Enter the link into your browser and enter the passcode: USA-PGH-CS2 <a href="http://survey.medallia.com/fishersci">http://survey.medallia.com/fishersci</a>

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY WAIVING THE FORMAL BID PROCESS PURSUANT TO NATIONAL CITY MUNICIPAL CODE SECTION 2.60.220, SUBSECTION (B), FOR THE POLICE DEPARTMENT'S SOLE SOURCE PURCHASE OF TWO (2) TRUNARC CHEMICAL IDENTIFICATION SYSTEMS, INCLUDING A 5-YEAR WARRANTY FOR EACH DEVICE, FROM THERMO SCIENTIFIC PORTABLE ANALYTICAL INSTRUMENTS, INC., FOR THE NOT TO EXCEED AMOUNT OF \$61,896.15

WHEREAS, on March 1, 2016, the City Council of the City of National City adopted Resolution 2016-23 ratifying the acceptance of \$100,00.00 in grant money disbursement from the Fiscal Year 2016/2017 Citizen's Option for Public Safety (COPS) program funds; and

WHEREAS, the National City Police Department desires to use the COPS grant fund for the purchase of two (2) TruNarc chemical identification ("TruNarc") systems from Thermo Scientific Portable Analytical Instruments, Inc., for the not to exceed amount of \$61,896.15; and

WHEREAS, the TruNarc system is a handheld narcotics analyzer that easily and safely identifies narcotics, stimulants, depressants, hallucinogens and analgesics with a laser that identifies the molecular structure of the chemical through any opaque or clear container, drastically reducing the risk of exposure to City personnel; and

WHEREAS, Thermo Scientific Portable Analytical Instruments, Inc., is the sole manufacturer of the TruNarc because the device utilizes the proprietary chemometrics and DecisionEngine 2.0 MX analysis software produce solely by Thermo Scientific Portable Analytical Instruments, Inc., and no other device of this kind on the market can make use of this software as it would be a violation of intellectual property protections held by Thermo Scientific Portable Analytical Instruments, Inc.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes waiving the formal bid process pursuant to National City Municipal Code section 2.60.220, subsection (B), for the Police Department's sole source purchase of two (2) TruNarc chemical identification systems, including a 5-year warranty for each machine, from Thermo Scientific Portable Analytical Instruments, Inc., for the not to exceed amount of \$61,896.15.

PASSED and ADOPTED this 24th day of July, 2018.

	Ron Morrison, Mayor
ATTEST:	APPROVED AS TO FORM:
Michael R. Dalla, City Clerk	Angil P. Morris-Jones City Attorney

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City authorizing the Mayor to execute the First Amendment to the City of San Diego Fire and Emergency Medical Dispatch Services Agreement by and between the City of San Diego and the City of National

## CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018 AGENDA ITEM NO.:

#### ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the Mayor to execute the First Amendment to the City of San Diego Fire and Emergency Medical Dispatch Services Agreement by and between the City of San Diego and the City of National City to extend the term of the Agreement for one additional year, retroactive to July 1, 2018 through June 30, 2019. (Fire)

PREPARED BY: Frank Parra

PHONE: 619-336-4551

Dispatch Services

3. Resolution

2. First Amendment to the Dispatch Agreement

DEPARTMENT: Fire

APPROVED BY:

#### **EXPLANATION:**

On June 4, 2013, the City Council adopted Resolution No. 2013-77 to enter into an Agreement with the City of San Diego to provide fire and emergency medical dispatch services to National City for five (5) years, from July 1, 2013 until June 30, 2018. As allowed in *Section M - Extensions* of the Agreement, the "Agreement may be extended for four (4) additional one (1) year periods by written agreement of the parties, and subject to the Mayor's authorization of a contract extension relative to each one year extension." The National City Fire Department would like the City Council to authorize the Mayor to execute the First Amendment to the Agreement to extend the term of the Agreement for a period of one year, retroactive to July 1, 2018 through June 30, 2019.

		0
FINANCIAL STATEMENT:  ACCOUNT NO.  001-412-125-299-0000 (Contract Services) – \$229,852.00  \$229,852.00 was appropriated in Contract Services for fiscal years.	APPROVED: APPROVED: ar 2019.	FINANCE MIS
ENVIRONMENTAL REVIEW: This is not a project and, therefore, not subject to environmenta	I review.	
ORDINANCE: INTRODUCTION FINAL ADOPT	TION	
STAFF RECOMMENDATION: Adopt the resolution.		
BOARD / COMMISSION RECOMMENDATION:		
ATTACHMENTS:		

June 4, 2013 - Agreement between the City of San Diego and City of National City regarding Fire and Emergency Medical

## AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND

#### THE CITY OF NATIONAL CITY REGARDING FIRE AND EMERGENCY MEDICAL DISPATCH SERVICES

THIS AGREEMENT is entered by and between the City of San Diego, a municipal corporation, [San Diego] and the City of National City, a municipal corporation, [National City], sometimes referred to jointly herein as the Parties.

#### RECITALS

WHEREAS, San Diego and National City have organized and equipped fire departments charged with the duty of fire protection and rescue within the limits of said Cities; and

WHEREAS, National City, by way of Resolution Number 2012-248, approved by its Council and Mayor, resolved that National City's interests would be best served by joining the Metro Zone; and

WHEREAS, National City's interests would be best served by entering into an agreement with San Diego to provide National City with fire and emergency medical dispatch services under the terms described in this Agreement; and

WHEREAS, San Diego's interests would be best served by entering into an agreement with National City to provide National City with fire and emergency medical dispatch services under the terms described in this Agreement; and

WHEREAS, it would be to the benefit of each party and in the best interests of the citizens of the respective jurisdictions for San Diego to provide fire and emergency medical dispatch services to National City in order to increase the health and safety of all affected residents; and

WHEREAS, National City desires and intends per the terms of this contract to pay San Diego for services.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and conditions contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, National City and San Diego agree as follows:

#### A. Term of Agreement

This Agreement shall be become effective as of July 1, 2013 or upon its final execution by the Parties, which ever comes first, and shall be effective until the last day of June 2018, five (5) years after its inception.

#### B. Obligations of the Parties

1. The service descriptions herein outline specific aspects of service relevant to the performance of the emergency dispatch services by San Diego. To the extent that safety or technological changes warrant an amendment of the specific service or method employed to provide the Fire and Emergency Medical Dispatch Services contemplated herein, neither Party may unreasonably refuse to implement safety or technological changes.

The dispatch services that will be provided include:

- a. Processing all fire and medical related emergency calls via the 911 Secondary Public Safety Answering Point (PSAP).
- b. Triaging medical calls using the Emergency Medical Dispatch process which includes:
  - i. Automated Pro QA Emergency Medical Dispatching (EMD) with call downgrading features.
  - Coordinated dispatch efforts with American Medical Response (AMR) for ambulances within National City with the use of an automated TriTech Computer Aided Dispatch (CAD) to GEAC CAD interface.
- c. 800 Mhz Radio Communications System (RCS) Radio dispatch services to coordinate with National City's 800 Mhz RCS existing equipment and RCS member rights.
- d. Dynamic Automatic Vehicle Location (AVL) driven dispatch of closest available resource(s) to given emergency, incident type(s), and location(s).
- e. VisiNet Mobile Data Computer services.
- f. Mobile Data Computer (MDC) driven mapping and live-routing services.
- g. TriTech CAD View services.
  - CAD Data Collection and Reporting services that will provide preestablished data collection points and generated reports including yearly, quarterly, monthly reports; call for service statistics and/or other incident specific data and reports as available.
- h. Records Management System (RMS) services that will permit a TriTech to Firehouse interface; a download of CAD data as needed; Fire Station Alerting Services; TriTech to Westnet interface.

i. Paging Services between TriTech and American Messaging interface.

#### C. Payment

- 1. <u>Dispatching Fee:</u> National City will owe San Diego an annual dispatching fee for services rendered under this Agreement of \$222,300. National shall pay this dispatching fee on a quarterly basis in the amount of \$55,575 per quarter. Not included in this dispatching fee is the cost of yearly MDC software license fees (\$300 per license per year), monthly MDC modem fees (\$504 per modem per year) and monthly pager fees (\$120 per pager per year). These on-going costs will be added to the yearly dispatching fee dependent on the actual costs per year and divided amongst the quarterly payments.
- Dispatching Fee Increases: On average, the National City call volume is 7,376 incidents per year. The annual dispatching fee will be increased should National City's call volume on the emergency dispatch system exceed the amount originally contemplated by this agreement by 5% or more. The percentage increase in the annual dispatching fee will be equal to the percentage increase of National City's Call volume. Any increase in the annual dispatching fee shall be spread evenly throughout the next agreement year's quarterly payments.
- 3. <u>Dispatching Fee Payment Due Date: San</u> Diego shall provide to National City, on a quarterly basis, a statement for services rendered under this contract and payment by National City shall be remitted 30 days thereafter.
- 4. Records: The Parties shall maintain books, records, logs, documents, and other evidence sufficient to record all actions taken with respect to rendering services under this Agreement throughout the performance of services and for ten (10) years following completion of services under this Agreement. The parties further agree to allow for mutual inspection, copying and auditing of such books, records, documents and other evidence at all reasonable times.

#### D. Indemnification and Insurance

1. Indemnification: National City shall defend, indemnify, and hold harmless San Diego, its elected officials, officers, agents, employees, and attorneys from and against any and all claims asserted or liability established for damages or injuries to any person or property (hereinafter collectively referred to as "Claims") related to or arising out of this Agreement or the work performed pursuant to this Agreement, but only to the extent that such Claims arise directly or indirectly from any negligent act, error, or omission of National City, its officials, officers, agents, or employees, and not including Claims caused by the concurrent negligent act, error or omission or the sole negligence or willful misconduct of San Diego, its elected officials, officers, agents, employees, and attorneys.

San Diego shall defend, indemnify, and hold harmless National City, its elected officials, officers, agents, employees, and attorneys from and against any and all

claims asserted or liability established for damages or injuries to any person or property (hereinafter collectively referred to as "Claims") related to or arising out of this Agreement or the work performed pursuant to this Agreement, but only to the extent that such Claims arise directly or indirectly from any negligent act, error, or omission of San Diego, its officials, officers, agents, or employees, and not including Claims caused by the concurrent negligent act, error or omission or the sole negligence or willful misconduct of National City, its elected officials, officers, agents, employees, and attorneys.

- 2. Insurance Requirements. National City, at its sole cost and expense, shall purchase and maintain in full force and effect during the term of the Agreement, and all amendments to the Agreement, the following insurance coverage:
  - a. Commercial Automobile Liability. Automobile insurance covering damages for all bodily injury or property damage incurred during the performance of this Agreement, with a minimum combined single limit of \$1,000,000. Such automobile insurance shall include hired and non-owned vehicles.
  - b. Commercial General Liability. National City is self-insured pursuant to the rules and regulations applicable in the State of California.
  - c. Worker's Compensation. National City is self-insured pursuant to the rules and regulations applicable in the State of California.
  - d. Rating Requirements. All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have been given at least an "A" & "V" rating in the current AM BEST, that are licensed to do business in the State of California, and that have been approved by the City.
  - e. Deductibles. National City will be responsible for any Self-Insured Retention (SIR) associated with its specific policies.
  - f. Specific Provisions Required. Each policy required under this section shall expressly provide, and an endorsement shall be submitted to San Diego, that:
    - i. Except as to Workers Compensation, the City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be named as additional insured. San Diego's Additional Insured status must be reflected on additional insured endorsement form CG 20 10, or equivalent, which shall be submitted to San Diego.
    - ii. The policies cannot be canceled, non-renewed or materially changed except after thirty (30) calendar days prior written notice

by the National City to San Diego by certified mail, as reflected in an endorsement which shall be submitted to San Diego except for non-payment of premium, in which case ten (10) days notice will be provided.

- iii. Before performing any services under this Agreement, National City shall provide San Diego with all Certificates of Insurance accompanied with all endorsements.
- iv. National City may obtain additional insurance not required by this Agreement.

If any required insurance coverage is provided on a "claims made" rather than "occurrence" form, National City shall maintain such insurance coverage for three (3) years after expiration of the term (and any extensions) of this Agreement.

If National City does not keep all of such insurance policies in full force and effect at all times during the term of this Agreement, San Diego may elect to treat the failure to maintain the requisite insurance as a breach of the contract and terminate the Agreement as provided herein.

#### E. Right to Terminate for Convenience

Either party may terminate the services agreed to pursuant to this contract by giving written notice of such termination to the other party. Such notice shall be delivered by certified mail with return receipt for delivery to the noticing party. The termination of the services shall be effective thirty (30) days after the receipt of this notice by the noticed party.

#### F. Right to Terminate for Default

If either party fails to perform or adequately perform any obligation required by this Agreement, that party's failure constitutes a Default. If the defaulting party fails to satisfactorily cure a Default within ten (10) calendar days of receiving written notice from the other party specifying the nature of the Default, the non-defaulting party may immediately cancel and/or terminate this Agreement, and terminate each and every right of the defaulting party, and any person claiming any rights by or through the defaulting party under this Agreement. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or enacted or established at a later date, that may be available to the non-defaulting party against the defaulting party.

#### G. City of San Diego Contract Requirements

To the extent appropriate in light of the rights and duties specified in this contract, and as applicable to particular parties, the following requirements shall apply:

- Drug-Free Workplace. National City agrees to comply with San Diego's
  Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted
  by San Diego Resolution R-277952 and incorporated into this Agreement by this
  reference.
- 2. ADA Certification. National City hereby certifies that it agrees to comply with San Diego's Americans With Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.
- 3. Non-Discrimination Requirements.
  - a. Compliance with San Diego's Equal Opportunity Contracting Program. National City shall comply with San Diego's Equal Opportunity Contracting Program Consultant Requirements. National City shall not discriminate against any employee or applicant for employment on any basis prohibited by law. National City shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subcontractors comply with San Diego's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold National City liable for any discriminatory practice of its Subcontractors.
  - b. Non-Discrimination Ordinance. National City shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. National City shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. National City understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, and other sanctions. This language shall be in contracts between the National City and any Subcontractors, vendors and suppliers.
  - c. Compliance Investigations. Upon San Diego's request, the National City agrees to provide to San Diego, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that National City has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by National City for each subcontract or supply contract. National City further agrees to fully cooperate in any investigation conducted by San Diego pursuant to San Diego's

Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517]. National City understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against National City up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. National City further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

#### H. Product Endorsement

National City acknowledges and agrees to comply with the provisions of San Diego's Administrative Regulation 95-65, concerning product endorsement. Any advertisement identifying or referring to San Diego as the user of a product or service requires the prior written approval of San Diego.

#### I. Conflict of Interest

National City is subject to all federal, state and local conflict of interest laws, regulations and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, et. seq. and 81000, et. seq. San Diego may determine that a conflict of interest code requires National City to complete one or more statements of economic interest disclosing relevant financial interests. Upon San Diego's request, National City shall submit the necessary documents to San Diego.

- 1. National City shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.
- 2. In connection with any task, National City shall not recommend or specify any product, supplier, or contractor with whom National City has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.
- 3. If National City violates any conflict of interest laws or any of these provisions in this Section, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects National City to liability to San Diego for attorney fees and all damages sustained as a result of the violation.

#### J. Mandatory Assistance

If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided under this Agreement, upon San Diego's request, National City, its agents, officers, and employees agree to assist in resolving the dispute or litigation. National City's assistance includes, but is not limited to, providing professional

consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

- 1. Compensation for Mandatory Assistance. San Diego will reimburse National City for any fees and expenses incurred for required Mandatory Assistance as Additional Services. San Diego in its sole discretion, shall determine whether these fees, expenses, and services rendered under this Section, were necessary due to National City or its agents', officers', and employees' conduct or failure to act. If San Diego determines that such fees, expenses, or services were necessary due to National City or its agents', officers', and employees' conduct, in part or in whole, San Diego is entitled to be reimbursed for any payments made for these fees, expenses, or services. Reimbursement may be through any legal means necessary, including San Diego's withholding of payment.
- Attorney Fees related to Mandatory Assistance. In providing San Diego with dispute or litigation assistance, National City or its agents, officers, and employees may incur expenses and/or costs. National City agrees that any attorney fees it may incur as a result of assistance provided under this Section are not reimbursable.

#### K. Jurisdiction, Venue, and Attorney's Fees

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney's fees in addition to any other award made in such suit or proceeding.

#### L. Severability

The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

#### M. Extensions

This Agreement may be extended for four (4) additional one (1) year periods by written agreement of the parties, and subject to the Mayor's authorization of a contract extension relative to each one year extension.

#### N. Amendments

This Agreement may only be amended in writing signed by both parties.

IN WITNESS WHEREOF, this agreement is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter section 265 and San Diego Municipal Code section 22.3222, and by the City of National City.

I HEREBY CERTIFY that I can legally bind the City of National City, a municipal corporation, and that I have read all of this Agreement and have executed it on behalf of the City of National City, a municipal corporation, this 4<sup>th</sup> day of June, 2013.

Ron Morrison, Mayor of National City

Date Signed: June 4, 2013

I HEREBY APPROVE the form of the foregoing agreement on behalf of National City this 4th day of June, 2013.

Claudia Gacitua Silva
City Attorney, National City

On behalf of the City of San Dego:

By: Bob FILNER

Title: MAY98

Date Signed: 1/17/13

I HEREBY APPROVE the form and legality of the foregoing agreement on behalf of the City of San Diego this \_\_\_\_\_\_\_, 2013.

Jan I. Goldsmith

City Attorney, City of San Diego

Noah Brazier, Deputy City Attorney

# FIRST AMENDMENT TO THE AGREEMENT BY AND BETWEEN THE CITY OF SAN DIEGO AND THE CITY OF NATIONAL CITY FOR FIRE AND EMERGENCY

MEDICAL DISPATCH SERVICES

THIS FIRST AMENDMENT TO THE AGREEMENT is entered into this 24th day of July, 2018, by and between the City of San Diego, a municipal corporation ("San Diego"), and the City of National City, a municipal corporation ("National City").

#### RECITALS

WHEREAS, on June 4, 2013, San Diego and National City entered into an Agreement entitled "Agreement by and between the City of San Diego and the City of National City regarding Fire and Emergency Medical Dispatch Services"; and

WHEREAS, the term of the Agreement was effective as of July 1, 2013 until the last day of June 2018, five (5) years after its inception; and

WHEREAS, San Diego and National City desire to exercise the option to extend the term of the Agreement for one (1) year, as provided for in Section M – Extensions, from July 1, 2018 to June 30, 2019; and

NOW, THEREFORE, in consideration of the mutual benefit to be derived therefrom, San Diego and National City agree as follows:

- 1. The term of the Agreement is extended for an additional one (1) year from July 1, 2018 to June 30, 2019, as permitted in Section M Extensions of the Agreement.
- 2. The parties further agree that with the foregoing exception, each and every term and provision of the Agreement by and between San Diego and National City, dated June 4, 2013, shall remain in full force and effect.

[Continued on Page 2]

IN WITNESS WHEREOF, this First Amendment is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter section 265 and San Diego Municipal Code section 22.3222, and the City of National City.

#### **CITY OF NATIONAL CITY**

By:	
By:Ron Morrison, Mayor	
APPROVED AS TO FORM:	
By:Angil P. Morris Jones City Attorney	
On behalf of the City of San Diego:	
By: Kevin Ester, Interim Fire Chief	By: Kris Michell, Chief Operating Officer
Date Signed:	Date Signed:
I HEREBY APPROVE the form and legal of San Diego this day of	ality of the foregoing Amendment on behalf of the City, 2018.
Mara W. Elliott City Attorney, City of San Diego	
By:Noah J. Brazier, Deputy City Attorn	ev

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO THE CITY OF SAN DIEGO FIRE AND EMERGENCY MEDICAL DISPATCH SERVICES AGREEMENT BY AND BETWEEN THE CITY OF SAN DIEGO AND THE CITY OF NATIONAL CITY TO EXTEND THE TERM OF THE AGREEMENT FOR ONE ADDITIONAL YEAR, RETROACTIVE TO JULY 1, 2018 THROUGH JUNE 30, 2019

WHEREAS, on June 4, 2013, the City Council adopted Resolution No. 2013-77 to enter into an Agreement with the City of San Diego to provide fire and emergency medical dispatch services to National City for five (5) years, from July 1, 2013 through June 30, 2018; and

WHEREAS pursuant to Section M - Extensions of the Agreement, the Agreement may be extended for four (4) additional one (1) year periods by written agreement of the parties, and subject to the Mayor's authorization of a contract extension relative to each one year extension; and

WHEREAS, the parties desire to exercise the option to extend the term of the Agreement for an additional one (1) year term, from July 1, 2018 through June 30, 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the Mayor to execute the First Amendment to the Agreement with the City of San Diego to extend term of the Agreement for a period of one (1) year, from July 1, 2018 through June 30, 2019, for the City of San Diego to provide fire and emergency medical dispatch services to National City

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City waiving the formal bid process pursuant to Municipal Code section 2.60.260 for the purchase of a Pierce Arrow XT pumper with equipment for the National City Fire Department, and authorizing the C

### CITY OF NATIONAL CITY, CALIFORNIA **COUNCIL AGENDA STATEMENT**

WEETING DATE:	July 24, 2018		AGENDA HEM NO.
Municipal Code s National City Fire Contract 59710	ection 2.60.260 for the purc Department, and authoriz	National City waiving the formal behase of a Pierce Arrow XT pumpering the City to piggyback the City ce Manufacturing, Inc., for a not Fund. (Fire)	with equipment for the of Los Angeles Supply
PREPARED BY:	Frank Parra	DEPARTMENT	ire
PHONE: 619-336-	4551	APPROVED BY:	>
EXPLANATION: See attached Staff	Report.		
FINANCIAL STATE	EMENT:	APPROVED:	Finance
		APPROVED: - \$707,701.37 ent Fund for fiscal year 2019. This purchase	MIS se will result in budgetary

**ENVIRONMENTAL REVIEW:** This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

### STAFF RECOMMENDATION:

Adopt the Resolution.

### **BOARD / COMMISSION RECOMMENDATION:**

### ATTACHMENTS: 1. Staff Report

- City of Los Angeles Supply Contract 59710 Amendment 1
- Proposal for Furnishing Fire Apparatus
- Proposal for 100% Pre-Payment Option
- New Apparatus Equipment List
- City of Los Angeles Supply Contract 59710
- Resolution



### **City Council Staff Report**

7/24/2018

### **ITEM TITLE**

Resolution of the City Council of the City of National City waiving the formal bid process pursuant to Municipal Code section 2.60.260 for the purchase of a Pierce Arrow XT pumper with equipment for the National City Fire Department, and authorizing the City to piggyback the City of Los Angeles Supply Contract 59710 – Amendment 1 with Pierce Manufacturing, Inc., for a not to exceed amount of \$707,701.37 using the Vehicle Replacement Fund. (Fire)

### **BACKGROUND**

This agenda item will replace a 2004 Pierce Arrow XT Fire Engine #460, which is 14 years old and has 116,420 miles.

### **DISCUSSION**

As allowed by Municipal Code section 260.260, the City would like to piggyback the City of Los Angeles Supply Contract 59710 – Amendment 1 that establishes a per unit cost of \$717,809.00 to Pierce Manufacturing, who was determined to be the lowest responsive, responsible bidder, and was awarded their bid for a Pierce Arrow XT pumper.

Pierce Manufacturing is pleased to offer the City of National City the opportunity to take advantage of this competitive bid price. The City of National City specifications had \$54,344.00 less in options and the prepayment discount of \$25,449.00 that was applied. This award is made for \$638,016.00 unit price bringing National City's final price for the pumper to \$695,843.30 including tax and other fees. In addition, equipment for the pumper total \$11,858.07.

The total cost for the fully outfitted pumper is \$707,701.37. \$750,000 was appropriated in the Vehicle Replacement Fund for fiscal year 2019. This purchase will result in savings of \$42,298.63.

City staff has confirmed that the City of Los Angeles bid process fully complies with Municipal Code section 260.260. It is in the City's best interest to take advantage of this opportunity.

### FISCAL IMPACT

644-412-125-519-0000 (Vehicle Replacement Fund) – \$707,701.37

\$750,000 was appropriated in the Vehicle Replacement Fund for fiscal year 2019. This purchase will result in budgetary savings of \$42,298.63.

### Page 2

Resolution of the City Council of the City of National City waiving the formal bid process pursuant to Municipal Code section 2.60.260 for the purchase of a Pierce Arrow XT pumper with equipment for the National City Fire Department, and authorizing the City to piggyback the City of Los Angeles Supply Contract 59710 – Amendment 1 with Pierce Manufacturing, Inc., for a not to exceed amount of \$707,701.37 using the Vehicle Replacement Fund. (Fire)

### **RECOMMENDATION(S)**

Adopt the resolution.

### ATTACHMENT(S)

City of Los Angeles Supply Contract 59710 – Amendment 1

Proposal for Furnishing Fire Apparatus

Proposal for 100% Pre-Payment Option

New Apparatus Equipment List

City of Los Angeles Supply Contract 59710

Resolution

### CITY OF LOS ANGELES

TONY M. ROYSTER GENERAL MANAGER AND CITY PURCHASING AGENT



DEPARTMENT OF GENERAL SERVICES ROOM 701 CITY HALL SOUTH 111 EAST FIRST STREET LOS ANGELES, CA 90012 (213) 928-9555 FAX NO. (213) 928-9515

March 13, 2018

Pierce Manufacturing, Inc. 2600 American Dr. Appleton, WI 54912

SUBJECT: CITY OF LOS ANGELES SUPPLY CONTRACT 59710 – AMENDMENT 01
Triple Combination Apparatus Fire Truck

The following price changes are effective March 1, 2018:

Item #	Old Price	New Price
1	\$677,179.00	\$ 717,809.00

Triple Combination Apparatus Fire Truck

Item #	Old Price	New Price
2	\$669,179.00	\$709,809.00

Triple Combination Apparatus Fire Truck with Option A

Item #	Old Price	New Price	
3	\$654,179.00	\$694,809.00	

Triple Combination Apparatus Fire Truck with Option B

Item #	Old Price	New Price	
4	\$677,179.00	\$717,809.00	

Triple Combination Apparatus Fire Truck with Option C





### CITY OF LOS ANGELES

TONY M. ROYSTER GENERAL MANAGER AND CITY PURCHASING AGENT



DEPARTMENT OF GENERAL SERVICES ROOM 701 CITY HALL SOUTH 111 EAST FIRST STREET LOS ANGELES, CA 90012 (213) 928-9555 FAX No. (213) 928-9515

All other contract terms and conditions remain unchanged and in force. Questions regarding this contract modification should be addressed to Kevin Thornton, Procurement Analyst, at 213/928-9548 or via e-mail: kevin.thornton@lacity.org.

Tony M. Royster General Manager and City Purchasing Agent

By: Supply Services Manager

Approved as to Form Michael N. Feuer City Attorney

Arletta Maria Brimsey
Deputy City Attorney



### PROPOSAL FOR FURNISHING FIRE APPARATUS

April 5, 2018

### NATIONAL CITY FIRE DEPARTMENT 333 E. 16th Street

National City, CA. 91950



The undersigned is prepared to provide for you, upon an order being placed by you, for final acceptance by South Coast Fire Equipment, Inc., at its corporate office in Ontario, California, the apparatus and equipment herein named and for the following prices:

	Each		Extension
One (1) Pierce Arrow XT Pierce's Ultimate Configuration (PUC) pumper per the as per the enclosed purchase contract from Los Angeles	\$ 717,809.00	s	717,809.00
Changes to Customer Specifications	\$ (54,344.00)	s	(54,344.00)
Customers price after changes per specification	\$ 663,465.00	S	663,465.00
Sales Tax @ 8.75%	\$ 58,053.19	s	58,053.19
Performance Bond	\$ 1,990.40	\$	1,990.40
California Tire Fee	\$ 10.50	\$	10.50
TOTAL PURCHASE PRICE	\$ 723,519.09	\$	723,519.09

### PLEASE NOTE THE FOLLOWING ABOUT THIS QUOTATION:

Payment options are available and are included under separate cover. One of these options may save your department a significant amount of money!

Said apparatus and equipment are to be built and shipped in accordance with the specifications hereto attached, delays due to strikes, war or international conflict, failures to obtain chassis, materials, or other causes beyond our control not preventing, within about 330-360

CALENDAR DAYS after receipt of this order and the acceptance thereof at our office in Ontario, California, and to be delivered to you at National City, CA.

The specifications herein contained shall form a part of the final contract and are subject to changes desired by the purchaser, provided such alterations are interlined prior to the acceptance by the company of the order to purchase, and provided such alterations do not materially affect the cost of the construction of the apparatus.

The proposal for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of bid, and with all National Fire Protection Association (NFPA) guidelines for Automotive Fire Apparatus as published at time of bid, except as modified by customer specifications. Any increased costs incurred by the first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customer as an addition to the price set forth above. Unless accepted within 30 days from date, the right is reserved to withdraw this proposition.

Respectfully Submitted.

South Coast Fire Equipment, Inc.

0 Sales Representative



### NATIONAL CITY FIRE DEPARTMENT

100% Pre-Payment Option April 5, 2018

If a 100% pre-payment were made at contract signing, the following discount would be applied to the final invoice:

		Each		Extension
One ( 1 ) Pierce Arrow XT Pierce's Ultimate Configuration (PUC) pumper per the enclsoed proposal for delvery sum of	\$	663,465.00	\$	663,465.00
100% Prepayment Discount	\$	(25,449.00)	\$	(25,449.00)
APPARATUS COST	\$	638,016.00	\$	638,016.00
Sales Tax @ 8.75%	\$	55,826.40	\$	55,826.40
Performance Bond	\$	1,990.40	\$	1,990.40
California Tire Fee	\$	10.50	\$	10.50
TOTAL PREPAY PURCHASE PRICE	\$	695,843.30	\$	695,843.30
Less 100% pre-payment at Contract Signing	\$	695,843.30	\$	695,843.30
BALANCE DUE AT DELIVERY	-	\$0.00	•	\$0.00

### 100% PRE-PAYMENT DISCOUNT SHOWN ABOVE IS AVAILABLE IN TWO WAYS:

- a) If your department makes a 100% cash pre-payment at contract signing.
- b) If your department signs up for a lease-purchase with Pierce Financial Solutions. This would require no money down and no payments for one (1) year if desired.
- Discount for the 100% pre-payment option includes discounts for the chassis, interest, aerial (if applicable), and flooring charges.
- \* Any item added after this option is elected will come at additional cost and will be added to the final invoice.

### **New Apparatus Equipment List**

EQUIPMENT TYPE	TEM#
POLY SALVAGE COVER 12' X 18'	<u> </u>
PUSH BROOM 18"	
DECON BRUSH	
ROUND SHOVEL	
MCLEOD	
PULASKI	
SQUARE SHOVEL	
RUBBER BLADE SQUEEGEES	
AUTO CRIB AC-14	
500 WATT HALOGEN LIGHT	
LOCK OUT KIT	
BOLT CUTTERS	
1" TFT BUBBLE CUP	
1.5 " TFT BAIL	
1.5" TFTV DUAL FORCE	
1.5" BUBBLECUP TFT	
PRO BAR HALLOGEN 30"	
6' NEW YORK HOOK	
8' NEW YORK HOOK	
HYDRANT WRENCH WITH 2 UNIVERSAL SPANNERS AND BRACKE	T
WILDLAND PROGRESSIVE HOSE PACK	
TFT LDH INTAKE VALVE	
WILDLAND HOSE CLAMP	
2 1/2" WYE TO 2 1/2"	
2 1/2 TO 1 1/2 GATED WYE	
2 1/2" GATE VALVE	
4" DOUBLE MALE	
4" DOUBLE FEMALE	
2 1/2" DOUBLE MALE	
2 1/2" DOUBLE FEMALE	
2 1/2" SIAMESE	

DIXIE LINE DIXIE LINE MES MES MES DIXIE LINE DARLEY DIXIE LINE MES 
<u>Pice</u> \$30.00 \$30.00 \$15.00 \$15.00 \$69.95 FFSHOSS38FSS #268 \$69.95 \$82.95 MT48FSS #268 \$82.95 \$55.95 #38PE136 #268 \$55.95 \$20.00 \$20.00 \$360.00 BK193 #288 \$120.00 \$100 \$50.00 #498 \$200.00 10040 \$200.00 \$230.95 T988 #86 \$230.95 DS1024BCP F125FP HMD-TOS F2095BC 891600 # 591 \$325.00 \$325.00 \$115 RH-6-FIREHOOKS \$115 \$140 RH-8-FIREHOOKS \$140 #198 \$330.80 #01519000 \$165.40 #59 \$449.84 #HP200 \$112.46 AB7NP-NX-PS #223 \$196 #HC-15 \$49.00 #205 \$245 #LWNL \$245 #223 \$384 #WV \$192.00 #205 \$620 #CHGV \$310.00 \$35.30 H36-25NH-25NH \$17.65 #219 \$171.82 #53R2525 \$85.91

2 1/2" TO 1 1/2" REDUCER	
1/1/2" TO 1" REDUCER	
H2O EXTINGUISHER	
Co2 EXTINGUISHER	
PURPLE K DRY CHEM EXTINGUISHER	
HIGH RISE HOSE STRAP	
3/8" SMOOTH BORE TIP	
BALL SHUT OFF VALVE	
TRUCK MOUNT FOR TFT CROSSFIRE MONITOR ON A 3" RISER	
TFT CROSSFIRE XFC-52	
2 1/2" TO 4" INCREASER	
2 1/2" TO 4" REDUCER	
2 1/2" TO 4" INCREASER WITH EARS	
H2O EXTINGUISHER BRACKET	
K TOOL	
CROW BAR BRACKET	
H2O WATER EXTINGUISHER CAN HARNESS	
AXE HANDLE BRACKET	
GAS CAN MOUNT	
BOLT CUTTER BRACKET	
QUICK MOUNTING PLATE	
BA BRACKET	
MISC. MOUNTING BRACKETS HANDLELOK	
COUPLING MOUNTS 2.5"	
COUPLING MOUNTS 1.5"	
COUPLING MOUNTS 4"	
REEL LITE BOOSTER HOSE	
MOBILE 800 MGZ RADIO	
MOBILE VHF RADIO	
VHF PORTABLE RADIO	
VHF PORTABLE RADIO CHARGER	
800 MGZ PORTABLE RADIO CHARGER	
800MGZ PORTABLE RADIO	
·	

MES				
MES				
MES	#235	\$129.00	\$258	#240
MES	#234	\$400.00	\$400.00	#332
MES	#234	\$190.00	\$190.00	#A413
MES	#61	\$67.46	\$134.92	#HS100
MES				
MES	#222	\$129.00	\$258	SOV-SWPG-15NH
MES				
MES		\$3,675.00	\$3,675.00	#xfc-52
MES				
MES				
MES				
MES	#233	\$45.03	\$135.09	#700229
MES				
MES	#284	\$47.80	\$47.80	#CHR55Z01C
MES				
MES	#284	\$38.40	\$115.20	#ZSMA5201C
MES	#279	\$47.80	\$47.80	#QM-OSC-1
MES		\$47.80	\$47.80	#BCB
MES	#284	\$46.20	\$184.80	#QL48Z25C
MES				UN-6-30-3-F
MES	#283	\$36.95	\$369.50	#1004
MES				
MES				
MES				
MES		143.75	\$862.50	RL 10RB
Sub total			\$10,903.97	
Shipping			?	1
8.75% Tax	(		\$954.10	1
TOTAL			\$11,858.07	1
			+,000.01	1

### City of Los Angeles, California

Contract

City of Los Angeles Purchasing Agent 111 E 1ST STREET ROOM 110 LOS ANGELES CA 90012

> Vendor ID: 0000034760 PIERCE MANUFACTURING INC PO BOX 2017 APPLETON WI 54912

Page 1		
Rate Date		
PO Date		
Contract Maximum		
40,000,000.00		

City of Los Angeles' vendors are required to have on file an approved Affirmative Action Plan and Certification. Contact Buyer at the City Purchasing Office at (213-485-3677) for information on this requirement.

In order to receive payments from the City of Los Angeles, vendors must have a valid Business Tax Registration Certificate (BTRC) number. Contact the City Clerk's Tax and Permits Division (213-485-3916) for information on this requirement.

All shipments, shipping papers, invoices and correspondence must be identified with the City of Los Angeles' Contract Purchase Order Number.

Overshipments will not be accepted unless authorized by requestor prior to shipment. Terms and conditions of parent contract are binding on its Contract Purchase Orders.

Procurement Analyst: Kevin Thornton E-mail address: kevin.thornton@lacity.org Phone Number: 213/928-9548

Requirements Contract for: Triple Combination Apparatus Fire Truck

Award No. 59710

Payment Terms: Net 30 Days Delivery: 330-360 Days ARO RFQ No.:4828 Previous Contract: 59078

Renewal Options: 7 Option Date: 1\_\_ 2\_\_ 3\_\_ 4\_\_ 5\_\_ 6 \_\_ 7\_\_ Options Granted: 0

You are hereby notified of the award of this contract with the City of Los Angeles in accordance with RFQ Number 4828, to furnish the City's annual requirements for the items and/or services identified in this document. The entire RFQ (including Attachment A and specifications) or any items thereof, addendums, and general conditions comprise the contract. The Quotation document signed by the appropriate contractor and by duly authorized City officials is on file in the Purchasing Agent's office.

NOTE: SALES TAX WILL BE ADDED AT TIME OF ORDER.

The following listed item(s) cover the only product(s) or service(s) approved for purchase under this contract. Products or services requested by the City and not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

> of Los Angeles, California For Purchasing Agent, City

83 of 385

City of Los Angeles Purchasing Agent 111 E 1ST STREET ROOM 110 LOS ANGELES CA 90012

Vendor ID: 0000034760 PIERCE MANUFACTURING INC

PO BOX 2017 **APPLETON WI 54912** 

Contract ID Page 59710 **Contract Dates Rate Date** 06/01/2016 05/31/2019 PO Date Description: **Contract Maximum** Fire Truck 40,000,000.00 **Allow Multicurrency PO** 

		Item Minimum Order		Item Contract Maximum	
Line # Item ID	Item Desc	Qty	Amt	Qty	Amt
1		0	0.00	0	

0.00

Triple Combination Apparatus Fire Truck

**Price Agreement:** 

Price Date:

PO Date

Price Quantity:

Line Quantity

Quantity Type:

Current Order Quantity

Contract Base Price

\$677,179.00000

EA

Triple Combination Apparatus Fire Truck, as per RFQ No. 4828 and Specification No. FD180R-21

CPO DELIVERY AND PAYMENT TERMS:

Payment Terms: Net 30 Days

Delivery: 330-360 Days A R O

\*\*\*\*\*\*\* INFORMATION PURPOSES ONLY \*\*\*\*\*\*\*

Warranty Option A, in accordance with RFQ No. 4828 and spec. FD 180R-21-11/15: - (\$8,000.00) Warranty Option B, in accordance with RFQ 4828 and spec. FD 180R-21-11/15: - (\$23,000.00) Warranty Option C, in accordance with RFQ 4828 and spec. FD 180R-21-11/15: 0/Zero

City of Los Angeles Purchasing Agent 111 E 1ST STREET ROOM 110 LOS ANGELES CA 90012

> Vendor ID: 0000034760 PIERCE MANUFACTURING INC PO BOX 2017 APPLETON WI 54912

Contract ID 59710			Page 3
<b>Contract Dat</b>	es		Rate Date
06/01/2016	to	05/31/2019	PO Date
Description:			Contract Maximum
Fire Truck			40,000,000.00
Allow Multi	curre	ncy PO	

		Item Minimum Order		Item Contract Maximum	
Line # Item ID Item Desc	Qty	Amt	Qtv	Amt	

SUPPLIER CONTACT: Kevin Newell, Kevin@southcoastfire.net 909/673-9900

### CONTRACT PURCHASE ORDERS:

Contract Purchase Orders will be issued during the contract period for materials or services as required. Supplier shall deliver no goods or services until a City department issues a Contract Purchase Order.

### APPROVED CONTRACT ITEM PURCHASES:

The listed items cover the only products approved for purchase under this contract.

The City of Los Angeles will not pay any invoice covering the delivery of any merchandise that is not explicitly authorized by this contract. Any products requested by the City not listed in the contract require a separate City Purchase Order in order for the supplier to receive payment.

### RENEWAL OPTION:

The City reserves the right to renew this contract for 7/seven additional one(1) year period(s). All renewals shall be on an annual basis and under the same terms and conditions of the original contract.

### ANNUAL PRICE ADJUSTMENT FOR LONG TERM FIXED PRICE CONTRACTS:

Unit Prices for each line item shall be fixed for one year from the contract start date. On contract anniversaries and renewals, unit prices may be adjusted for the next year in accordance with manufacturer's published price adjustments. Any price adjustments shall be mutually agreed upon by the City Purchasing Agent and the supplier. Price increases will not exceed a reasonable amount, supported by written documentation as indicated in the paragraph below and as determined by the City Purchasing Agent, for any price adjustment. Price reductions may be issued at any time.

The City reserves the right to terminate contract without further obligation by either party in event price increases are not acceptable. Escalating factors will not be automatically granted. Requests for price increases shall be in writing and accompanied by each manufacturer(s) price list(s) with appropriate supporting documents acceptable to the City. Such documents shall include, but not be limited to manufacturer/distributor/dealer invoices, insurance bills, utility bills, freight bills, payroll records, etc. The request shall state the percentage increase and the revised price for each affected contract item.

No increases will be granted without prior approval of the City Purchasing Agent.

### ESTIMATED EXPENDITURES AND THRESHOLD ADJUSTMENT:

Total expenditures for the life of this contract, including the initial term and all renewals or extensions, are estimated to be \$ 40,000,000.00. No guarantee can be given that this total will be reached or that it will not be exceeded. Supplier agrees to furnish more or less in accordance with actual contract requirements.

Based on the City's estimate, the supplier will provide an additional volume percentage adjustment if the City exceeds the following threshold amount levels:

Threshold Amount Level: Volume Percent Adjustment:

\$ 40,000,000.00 \$ 45,000,000.00 \$ 50,000,000.00 .25 %

In no case shall the supplier's warranty period be less than, but may be longer than any express warranty or implied warranty of merchantability or fitness for use.

OTHER GOVERNMENT AGENCY PURCHASES:

City of Los Angeles Purchasing Agent 111 E 1ST STREET ROOM 110 LOS ANGELES CA 90012

Vendor ID: 0000034760
PIERCE MANUFACTURING INC
PO BOX 2017
APPLETON WI 54912

Contract ID 59710			Page 4
Contract Dat	es	2000	Rate Date
06/01/2016	to	05/31/2019	PO Date
Description:			Contract Maximum
Fire Truck			40,000,000.00
Allow Multin	curre	ncy PO	

		Item Minimum Order		Item Contract Maximum	
Line # Item ID	Item Desc	Qty	Amt	Qtv	Amt

### AUTHORIZED DISTRIBUTOR/DEALER:

The supplier indicates it is an authorized factory distributor/dealer for the manufacturer quoted, or has provided a formal Letter of Certification from the manufacturer, stating that the manufacturer will honor any warranty claims by the City for equipment, parts, and/or materials provided by the supplier.

The manufacturer will be responsible for any default of the supplier that is not corrected by the supplier in a timely and efficient manner. This responsibility includes replacing incorrect or defective parts, trouble shooting, and correcting problems that are traceable to the manufacturer.

### QUARTERLY REPORTS:

The supplier shall provide the City Purchasing Agent with quarterly reports, to include the following:

- 1) Expenditure Report that indicates Manufacturer name, description, product/part number, quantity, unit price and extended price of all items sold to the City (contract inception to report date).
- 2) Environmentally Preferable Product (EPP) Report that indicates the quantity and description of products sold to the City that are considered EPP. This information may be included in the Expenditure Report.
- 3) Business Inclusion Program Report that indicates the quantity and description of products sold to the City that were manufactured by or obtained from MBE, WBE, SBE, EBE, DVBE and OBE sub-suppliers. This information may be included in the Expenditure Report.

Reports shall be created in a MS/Excel spreadsheet format as provided by the Purchasing Agent, and delivered by the 10th of the following month to City of Los Angeles Purchasing Agent, 111 E. First St., Attn: Procurement Analyst, Room 110, City Hall South, Los Angeles, California, 90012-4111. The supplier shall reference the City's contract number on all reports.

### CONTRACT PERFORMANCE REVIEWS:

The supplier agrees to attend periodic Contract performance reviews, facilitated by the City's Contract Manager. Reviews may be held a minimum of once per calendar quarter, focusing on the supplier's and the City's meeting product and service quality levels stated in the Contract, adherence to the Contract terms and conditions, and providing a forum to informally discuss opportunities for improving products, services, Contract terms and conditions, and other related issues in an effort to create economies and cost reductions for the supplier and the City.

### LIQUIDATED DAMAGES FOR LATE DELIVERY:

Delivery delays beyond the Contract/Purchase Order delivery date will result in added expense to the City. The City of Los Angeles shall be paid damages for such delay. Inasmuch as the amount of damage is extremely difficult to ascertain, the supplier agrees to compensate the City in the amount of \$100.00 per calendar day beyond the delivery date specified. This amount shall be fixed as liquidated damages that the City will suffer by reason of such delay, and not as a penalty. The City shall have the right to deduct and retain the amount of such liquidated damages from any monies due the supplier.

The supplier shall be entitled to a reasonable extension of time for unavoidable delay in delivery due to causes not reasonably foreseeable by the parties at the time of the Contract/Purchase Order execution, and that are entirely beyond the control and without the fault or negligence of the supplier, including, but not limited to, acts of God or the public enemy, war or other national emergency making delivery temporarily impossible or illegal, acts or omissions of other suppliers, strikes and labor disputes not brought on by any act or omission of the supplier, fire, flood, epidemics, quarantines, or freight embargoes.

### SUBCONTRACTORS:

All subcontractors shall be approved by the City Purchasing Agent prior to working on City projects. A subcontractor is defined as a person, partnership, corporation or other entity, which enters into a contract with a contractor for performance of some or all of the City contracted work.

The Contractor shall identify subcontracted work by subcontractor name and dollar amount subcontracted on all

City of Los Angeles Purchasing Agent 111 E 1ST STREET ROOM 110 LOS ANGELES CA 90012

> Vendor ID: 0000034760 PIERCE MANUFACTURING INC PO BOX 2017 APPLETON WI 54912

Contract ID 59710			Page 5
Contract Dat	es		Rate Date
06/01/2016	to	05/31/2019	PO Date
Description:			Contract Maximum
Fire Truck			40,000,000.00
Allow Multie	curre	ncy PO	40,000,000.0

		Item Minii	Item Minimum Order		act Maximum
Line # Item ID	Item Desc	Qty	Amt	Qty	Amt
monthly/quarterly rep	orts. Wholly owned subsidiaries of th	e contractor shall not be consider	ed as subcontracto	ors, but	
	ied in advance of their usage. The Co			V. 1	
	luce their level of work without the Cit			l shall	
not be unreasonably		,			

All procurement agreements with a value in excess of \$25,000 and having a term in excess of three (3) months are subject to the Sweat-Free Procurement Ordinance. Subcontractor information for these agreements shall be provided in both hardcopy and electronic versions. Information for these contractors/subcontractors will be posted on the City Purchasing Agent's Internet website.

### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY WAIVING THE FORMAL BID PROCESS PURSUANT TO MUNICIPAL CODE SECTION 2.60.260 REGARDING COOPERATIVE PURCHASING AND AUTHORIZING THE CITY TO PIGGYBACK ONTO CITY OF LOS ANGELES SUPPLY CONTRACT 59710 – AMENDMENT 1 WITH PIERCE MANUFACTURING, INC., FOR THE PURCHASE OF A PIERCE ARROW XT PUMPER WITH EQUIPMENT FOR THE NATIONAL CITY FIRE DEPARTMENT, FOR THE NOT TO EXCEED AMOUNT OF \$707,701.37 USING THE VEHICLE REPLACEMENT FUND

WHEREAS, as part of the Fiscal Year 2019 annual budget, the City Council approved funding for the purchase of a 2019 Pierce Arrow XT Pumper with equipment to replace the Fire Department's 2004 Pierce Arrow XT Fire Engine No. 460, which is 14 years old and has 116,420 miles; and

WHEREAS, there is an opportunity for the City to piggyback onto the City of Los Angeles Supply Contract 59710 – Amendment 1, for the purchase of a Pierce Arrow XT pumper with equipment for the not to exceed amount of \$707,701.37, consistent with Section 2.60.260 of the National City Municipal Code regarding cooperative purchasing; and

WHEREAS, National City Municipal Code Section 2.60.260 provides authority to the purchasing agent to join with other public jurisdictions to take advantage of cooperative purchasing opportunities, including but not limited to any federal, state or local agency pricing program or structure that is determined by the purchasing agent to allow a procurement that is in the best interests of the City. The purchasing agent may buy directly from a vendor at a price established through competitive bidding by another public agency whose procedures have been determined by the purchasing agent to be in substantial compliance with the City's procurement procedures, irrespective of the contracting limits of that jurisdiction or agency, even if the City had not initially joined with that public agency in the cooperative purchase; and

WHEREAS, funds in the amount of \$750,000 were appropriated in the Vehicle Replacement Fund for Fiscal Year 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby affirms the determination that the City of Los Angeles' procurement procedures are in substantial compliance with National City's, and pursuant to Section 2.60.260 of the Municipal Code, authorizes waiving the formal bid process to piggyback onto the City of Los Angeles Supply Contract 59710 – Amendment 1 with Pierce Manufacturing, Inc.

BE IT FURTHER RESOLVED that the City Council authorizes the purchase of a 2019 Pierce Arrow XT Pumper with equipment from Pierce Manufacturing, Inc., for a not to exceed amount of \$707,701.37 using the Vehicle Replacement Fund.

[Signature Page to Follow]

### PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City, waiving the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City (Buyer) 1) to piggyback the State of Cali

### CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE:

July 24, 2018

AGENDA ITEM NO.

### ITEM TITLE:

Resolution of the City Council of the City of National City, waiving the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City (Buyer) to piggyback 1) the State of California Department of General Services Contract #1-18-23-14B to award the purchase and build-out of six (6) fully equipped police patrol vehicles to Folsom Lake Ford in an amount not to exceed \$363,109.38; 2) the County of San Diego Department of Purchasing and Contracting Contract #550743 to award the purchase of police radios for the new patrol vehicles to the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., in an amount not to exceed \$27,729.91.

PREPARED BY: Ray Roberson, Management Analyst II

**DEPARTMENT:** Engineering/Public Works

PHONE: (619) 336-4583

APPROVED BY:

**EXPLANATION:** 

See attached explanation.

FINANCIAL STATEMENT:

**APPROVED** 

ACCOUNT NO.

APPROVED:

644-411-000-511-0000 (Equipment Replacement Reserve): \$390,839.29 \$405,000 is appropriated in the FY2019 budget for patrol vehicles.

**ENVIRONMENTAL REVIEW:** 

N/A

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

### STAFF RECOMMENDATION:

Adopt Resolution awarding the purchase and build-out of six (6) police patrol vehicles and radios for the National City Police Department.

**BOARD / COMMISSION RECOMMENDATION:** 

N/A.

### ATTACHMENTS:

- 1. Explanation
- 2. Proposals/Quotes
- 3. State of California Department of General Services contract 1-18-23-14B
- 4. San Diego County Department of Purchasing and Contracting RCS Contract #550743
- 5. Resolution

### Explanation:

As part of the FY 2019 annual budget, City Council approved funding through the Equipment Replacement Reserve for the purchase of six (6) patrol vehicles for the National City Police Department. Staff seeks Council authority to waive the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorize the City (Buyer) to piggyback 1) the State of California Department of General Services Contract #1-18-23-14B to award the purchase and build-out of six (6) fully equipped police vehicles to Folsom Lake Ford in an amount not to exceed \$363,109.38; and 2) the County of San Diego Department of Purchasing and Contracting Contract #550743 to award the purchase of police radios for the new patrol vehicles to the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., in an amount not to exceed \$27,729.91. Folsom Lake Ford will subcontract with Lehr Auto Electric & Emergency Equipment for the build-out and upfitting of the police department vehicles.

NCMC Section 2.60.260 provides authority to the purchasing agent to join with other public jurisdictions to take advantage of cooperative purchasing opportunities, including but not limited to any federal, state or local agency pricing program or structure that is determined by the purchasing agent to allow a procurement that is in the best interests of the City. The purchasing agent may buy directly from a vendor at a price established through competitive bidding by another public agency whose procedures have been determined by the purchasing agent to be in substantial compliance with the City's procurement procedures, irrespective of the contracting limits of that jurisdiction or agency, even if the City had not initially joined with that public agency in the cooperative purchase.

National City's purchasing staff has confirmed that both the State of California Department of General Services Contract #1-18-23-14B with Folsom Lake Ford as well as the County of San Diego Department of Purchasing and Contracting RCS Contract #550743 were competitively bid through a Request for Bid (RFB) and bid process, and that the respective procurement procedures are in substantial compliance with those of National City.

### FOLSOW LAKE FORD

THE FORD SOURCE

12755 FOLSOM BLVD. • FOLSOM, CA 95630 • (916) 353-2000

2019 ORDER 14-16 WEEKS

FINAL ORDERS DUE 9/21/2018

BUILD IS ON FIRST COME BASIS

DANIEL A. RAIMONDI Fleet Director

PATROL

(916) 353-2000, Ext. 376 Toll Free T-800-655-0555 Celf. (916) 825-1622 Fax (916) 353-2078

7/11/2018

K8A	4DR	AWD	POLI	CE
	. 115	6"	WR	

UM AGATE BLACK

CLTH BKTS/VNL R 9

**EBONY BLACK** W

500A EQUIP GRP . PREM SINGLE CD

.3.7L V6 TIVCT 99R .6-SPD AUTO TRAN 44C

BADGE DELETE 16D

CARGO DOME LAMP 17T

18W RR WINDOW DEL

21L FRONT AUX LIGHT

CAL EM NOT REQD 423

43D COURTESY DISABL

515 DUAL LED LAMPS

53M SYNC SYSTEM

BLIND SPOT INFO 55B

KEY CODE 1284X 59B

NOISE SUPPRESS 60R

FRONT HDLMP PKG 66A GRILL WIRING

RR DR/LK INOP - 68G

REVERSE SENSING 76R

87R RR VIEW MIR/CAM

90E LH/RH PNLS III

92R SOLAR TINT 2ND

936 CAL SER VEH EXP FLEX-FUEL

153 FRT LICENSE BKT \$34,460.00

\$20,836.07 LEHR UP FIT

\$55,296.07

\$ 4,838.41 TAX @ 8.75%

8.75 CA TIRE FEE

\$60,143,23

375,00 SHIPPING

\$60,518.23 DELIVERED

LESS \$500.00 DISCOUNT

20 DAY PAYMENT

INCLUDES PAINTED WHITE

ROOF AND 4 DOORS

REGISTRATION

6/11/2018

### 2019 POLICE INTERCEPTOR UTILITY

PERFECTANY

CONTRACT 1-18-23-14B

**EQUIPMENT GROUP** 

SELECT OPTIONS

CONTRACT 1-18-23-14B	COLLINE	GROUP	SELECT OPTIONS	V
Police Interceptor Utility AWD (Incl. D&D)		KB	s s	
3.7L V6 Ti-VCT FFV with 6-Speed Automatic Transmi	lasion	99R /	4C S	
3.5L V6 EcoBoost® (131mph Top Speed)		991 /	4C \$3,568.00	
EQUIPMENT OF ONE				
Interior Upgrade Package  1º and 2º Row Carpet Floor Covering  Cloth Seats — Rear  Center Floor Console less shifter w/unique Police of  Top Plate — Finish 3 (Incl. 2 cup holders)  Floor Mats, front and rear (carpeted)  Detetes the standard console mounting plate (85D)  Note: Not available with options: 67G, 67H, 67U, 85R, 98		des Console ess	\$408.00	
Frost Headlamp / Police Interceptor Housing Only  — Pre-drilled hole for side marker police use, does not chill housing assemblies)  — Pre-moided side warning LED holes with standard st lights)  Note: Not available with options: 88A and 67H	include LED installed light	401	\$131.00	
Front Headlemp Lighting Solution Includes base LED Low beam/incandescent (Haloge Wig-wag function and two (2) white rectangular LED Includes pre-wire for grille LED lights, siren and spas Wiring, LED lights included. Controller "not" included Note: Not available with option: 87H Note: Recommend using Carge Wiring Upfit Package (67)	side warning lights iker (60A)	667	\$890.00	
Tail Lamp / Police Interceptor Housing Only - Pre-existing holes with standard twist look sealed car (eliminates need to drill housing assemblies) Note: Not available with options: 898 and 87H			\$64.00	
Talf Lamp Lighting Solution  - Includes hase LED lights plus two (2) rear integrated lights in talliamps  LED lights only. Wiring, controller "not" included Note: Not available with option: 67H Note: Recommend using Cargo Wiring Upfit Package (67)	•	668	\$444:00	
Rear Lighting Solution Includes two (2) becallt flashing linear high-intensity to the hoursed to inside liftgate glass Includes two (2) backlit flashing linear high-intensity to blue) installed en inside lip of liftgate (lights activate to LED lights enly. Wiring, controller "not" included Note: Not available with option: 67H Note: LED lights only — does "not" include wiring or controller "note higher and processing Cargo Wiring Upilit Package (676)	.ED lights (driver's side re when littgate is open)	d / Passenger side	\$476.00	
Cargo Wiring Upfit Packaga  Rear console plate (85R) — contours through 2 <sup>nd</sup> row; Wiring overlay harness with lighting and siren interfact Vehicle Engine Harness: Two (2) light connectors — supports up to six (6) i.i. Two (2) grite light connectors One (1) 10-amp siren/speaker circuit (engine to ca Wheten Lighting PCCSR Control Head Wheten PCCSR Light Relay Center (mounted behind Light Controller / Relay Center Wiring (jumper harnes Wheten Specific Cable (console to cargo area) Conste Pre-wiring for grille LED lights, siren and speaker (60) Doss "not" include LED lights O Recommend Police Wire Harness Connector Kits 4 Note: Not available with options: 65U, 87H and 67U	channel for wiring se connections ED lights (engine compart urgo area) 2 <sup>nd</sup> row seat) so sets PCCSFL to Control He A)	ment)	\$1,399.00	
Ready for the Bond Package:  All-in Complete Peckage – Includes Police Intercept  - Whelen Cencorn Light Controller Head with dimmable  - Whelen Cencorn Relay Center / Siren / Amp w/Traffic  - Light Controller / Relay Cencorn Wiring (wiring harnes  - High current pigtall  - Whelen Specific WECAN Cable (console to cargo are  - Pre-wiring for grille LED lights, siren and speaker (60/  - Rear console plats (65FI) – contours through 2 <sup>rd</sup> row;  - Grille linear LED Lights (Fled / Blue) and harness  - 100-Watt Siren / Speaker  - Hidden Door-Lock Plunger / Rear-Door Handles Inopriote: Nota available with options: 68A, 688, 680, 673, 673,	e backight : Advisor (mounted behind as) wariditional input/outp as) connects Cencom to C A) channel for wiring	2 <sup>nd</sup> now seet) ut pigtails	\$3,568.00	

6/11/2018 2019 POLICE INTERCEPTOR UTILIT	Total Control of the	PROPRIE	
CONTRACT 1-18-23-14B EQUIPMENT GROUP	٠.	SELECT OPTIONS	V
Ultimate Wiring Package	277317257		
Includes the following:  - Rear console accunting plate (85R) — contours through 2 <sup>rd</sup> row; channel for wiring — Pre-wiring for gritle LED lights, siren and speaker (60A)  - Wiring hamess I/P to rear cargo area (overlay)  o Two (2) light cables — supports up to six (6) LED lights (engine compartment/gritle)  o One (1) 10-amp siren/speaker circuit engine cargo area  - Rear hatch/cargo area wiring — supports up to six (6) rear LED lights  - Does "not" include LED lights, side connectors or controller  o Recommend Police Wire Harness Cornector Kits 47C and 21P  Nets: Not available with options: 65U, 67G, 67H	87U	.\$576.00	a vivina malaja da manda m
Police Wire Harnese Cornector KR — Front For connectivity to Ford Pi Paolage solutions includes;  • (2) Male 4-pin connectors for siren  • (5) Female 4-pin connectors for lighting/siren/speaker  • (1) 4-pin IP connector for speakers  • (1) 4-pin IP connector for siren controller connectivity  • (1) 8-pin sealed connector  • (1) 14-pin IP connector  Note: See Upfitters guide for further detail www.fordpoliceInterceptorupfit.com	476	\$110.00	
Police Wire Harness Connector Kit Rear For connectivity to Ford PI Package solutions includes:  (1) 2-pin connector for rear lighting  (1) 2-pin connector  (8) Female 4-pin connectors  (9) Male 4 pin connectors  (1) 10-pin connectors  (1) 10-pin connector  Note: See Uplitters guide for further detail www.fordpolicainterceptoruplis.com	210	\$135.00	
Engine Block Heater	41H	\$95,00	
License Plate Bracket Front	183	NC NC	
Auto Headlamp	esi.	\$120.00	3000
Dark Car Feature – Courtesy lamps disabled when any door is opened.  Note: Not available with Daylime Running Lamps (942)	43D	CONTRACT	
Police Silent Mode	431.	\$21.00	
Daytime Floring Lamps	942	\$46.00	
Dome Lamp - Red/White in Cargo Area	171	\$54.00	
Front Warning Auxiliary LED Lights (Driver side – Red / Passenger side – Blue)	21L	\$577.00	
Note: Requires 90A  Forward Indicator Pocket Werning LED Lights — Warn, Park, Turn (Driver side — Red / Pessenger side — Blue)  Note: Requires 80A	21W	\$668.00	
Front Interior Visor Light Ber (LED)  — Super low-profile warning LED light ber fully integrated into the top of the wandshield near the headliner. (Red/Red or Blue/Blue operation. White "take down" and "scene" capabilities)  Note: Requires Rear Console Plate (85R). Not available with interior Upgrade Package (65U)	96W	\$1,165.00	
Pre-wiring for grille LED lights, siren and speaker \$54.00	60A	JP-68A / P-67G / P-67H /	P-67U
Rear Quarter Glass Side Marker LED Lights (Driver side Red / Passenger side Blue)  Rear Spoiler Traffic Warning Lights (LED)  Fully integrated in rear spoiler for enhanced visibility  Provides red/blue/amber directional lighting  Note: Requires Rear Console Plate (85R). Not available with interior Upgrade Package (85U)	63L 96T	\$601.00 <b>\$1</b> ,463.00	
Side Marker LED - Sideview Mirrors (Oriver side - Red / Passenger side - Blue) - Located on backside of exterior mirror housing - LED lights only, Wiring, controller "not" included. Note: Requires 60A Note: Recommend using Cargo Wiring Upit Package (67G), Ready for the Read Package (67H) or Ultimate Wiring Package (67U)	638	\$304,00	
Spot Lamp Prep Kit, Driver Side Note: Does not include spot kump housing and builb	51P	\$145.00	
	siW		
Spot Lamp Prop Kit, Dual Side Note: Does not include spot lamp housing and bulbs		\$293.00	
Driver Only	51Y	\$224.00	
Dual (driver and passenger)	51Z	\$224.00 CONTRACT	
Drivor Only (Unity)	51A	\$413.00	

BASE PRICE \$30,994.65

2010 7:01 105 11 11 11 11 11	SE PRICE \$30,994	
	PROPRI	ETARY
CONTRACT 1-18-23-14B EQUIPMENT GROUP	SELECT OPTIONS	<b>V</b>
Driver Only (Whelen) SIT	\$439.00	26.00
Dual (driver and passenger) (Unity) 518	\$648.00	<del> </del>
Dual (driver and passenger) (Whelen) 51V	\$695.00	<del> </del>
		2002
Glass - Solar Tint 2 <sup>nd</sup> Row, Rear Quarter and Liftgate Window (Deletes Privacy Glass) 92G	\$125.00	1
Glass Solar Tint 2 <sup>nd</sup> Row Only, Privacy Glass on Rear Quarter and Liftgate Window 92R	\$89.00	1
Floof Rack Side Relis - Black 68Z Deflector Plate (Standard on EcoBoost® engine) 76D	\$163.00	
Center for Plant (Statistical of Ecosoosite engine) 765	\$350.00	Linea e e e
Two-Tone Vinyi Package #1		
■ Roof Vinvi		
RIH/LH Front-Doors Viny!     RIH/LH Rear-Doors Viny!     31A	\$877.00	ļ
White (YZ) Only		ŀ
Note: Not available with the following options: 91C, 91D, 91E, 91F, 91G, 91H, 91J		<u> </u>
Two-Tone Vinyl Package #3  • Roof Vinyl	A700 00	
• FIH/LH Front-Doors Only Viny!	\$732.00	Ì
White (YZ) Only     Note: Not available with the following options: 91A, 91D, 91E, 91F, 91G, 91H, 91J	r en anaren en e	ŀ
Two-Tone Viryl - Roof	···	
• Ricof Vinyl • White Only		
Note: Not available with the following options: 91A, 91C	\$513.00	•
Two-Tone Vinyl - RH/LH Front-Doors	1	
White Only Note: Not available with the following options: 91A, 91C, 91D, 91E, 91F, 91G  91J	\$319.00	
Vinyi Word Wrap - POLICE "non-reflective"	ΨΟ 10.00	
White (VZ) lettering located on 1-UDM sides of unbids     set	6001-00	
Note: Not available with the following options: 91A, 91C, 91E, 91F, 91G, 91J  Vinyl Word Wrap POLICE "reflective"	\$831.00	
* Shack intering located on LIVIH sides of vehicle Note: Not available with the following aptions: 91A, 91C, 91D, 91F, 91G, 91J	Programme Annual Control	
	\$831.00	
Viny! Word Wrap - POLICE "reflective"  • White lettering located on LH/RH sides of vehicle 915		
Note: Not available with the following options: \$1A, \$1C, \$1D, \$1E, \$1G, \$1J	\$831:00	
Vinyl Word Wrap - StiERIFF "non-reflective"		
White lettering located on LF/RH sides of vehicle Note: Not available with the following options: 91A, 91C, 91D, 91E, 91F, 91J	\$831.00	
<b>Mana</b>		S2630538
Wheel Covers (18" Full Face Wheel Cover) Note: Only available with the standard Police wheel, not available with 64E 651.		2.50
	\$64.00	
18" Painted Aluminum Wheel Note: Spare wheel is an 18" conventional (Police) black steel wheel 648	\$476.00	]
Access (Maries)		
Rear View Carners (Includes Electrochromic Rear View Mirror - Video is displayed in rear view mirror)	1.75	
Note: This option would replace the camera that comes standard in the 4" center stack area.  Note: Camera can only be displayed in the 4" center stack (std) "CR" the rear view minor (87R)	NC /	
SYNO® Basic (Voice-Activated Communication System) - Includes single USB port and single auxiliary		·····
audio input jack	\$308.00	
Remappable (4) switches on steering wheel (less SYNC®) 81R	\$163.00	
Premappable (4) switches on steering wheel (with SYNC®) 618	\$163.00	
Hidden Door-Look Planger wRear-door handles operable <sup>1</sup> 52H	\$\$145.00 <i>i</i>	
Hidden Door-Lock Plunger w/Rear-door handles inoperable 52P  Rear-Door Handles Inoperable / Locks Operable 68L	\$168.00 J/P-67H	
Rear-Door Handles Inoperable / Locks Operable  Rear-Door Handles Inoperable / Locks Inoperable 660	\$36.00 \$36.00	
Global Lock / Unlock feature (Door-panel switches will lock/unlock all doors and rear liftgate. Eliminates	V00.00	·*************************************
overhead console liftgate unlock switch and 45 second timer. Also eliminates the blue liftgate release 180	100	1
button if ordered with Remote Keyless)	NG	22000000
Windows - Rear-window power delete, operable from front driver side switches 18W	\$26.00	
1 <sup>st</sup> and 2 <sup>nd</sup> row carpet floor covering (includes floor mals, front and rear) 18C	2124 00	
	\$131.00 ./P-65U	
2 <sup>rd</sup> Row Cloth Seats 88F Power passenger seat (6-way) wimanual recline and lumbar 87P	\$64.00 - / P-65U \$64.00 - / P-65U \$340.00	**********

6/11/2018 2019 POLICE INTERCEPTOR UTILITY	7	PROPER	ETARY
CONTRACT 1-18-23-14B EQUIPMENT GROUP		SELECT OPTIONS	V
Front Console Plate - Delete Note: Not available with option: 67G, 87H, 87U, 85R	95D	NC /P-65U	
Rear Console Plate Note: Not available with option: 85U, 86D	867	\$36.00 P-67G/P-67H/P-	87U
Control of the Contro	2004 10 11 11 11 11 11 11 11		
Keyed Alike - 1435x	59E	\$54.00	
Keyed Alike - 1204x	#15	\$54.00	
Keyed Alike 0135x	\$\$D	\$54.00	
Keyed Alike - 0576x	59F	\$54.00	
Keyed Alike - 1111x	<b>1997</b>	\$54.00	
Keyed Alike 1294x	59C	\$54.00	
Keyed Alike - 0151x	59G	\$54.00	
Ballistic Door-Pariels (Level III) Driver Front-Door Only <sup>2</sup>	90D	\$1,657.00	
Ballistic Door-Panels (Level III) - Driver & Pass Front-Doors <sup>2</sup>	90E	CONTRACT	
Ballistic Door-Panels (Level IV+) - Driver Front-Door Only <sup>5</sup>	90F	\$2,523.00	
Ballistic Door-Panels (Level (V+) - Driver & Pass Front-Door Only <sup>3</sup>	90G	\$5,047.00	
BLIS® Blind Spot Monitoring with Cross-traffic Alert (Requires 54Z)  Note: Includes manual fold-away mirrors, wheat, who memory, w/o puddle lamps	559/542	\$569.00	
Lockable Gas Cap for Easy Fuel® Capless Fuel-Filer	191	\$21.00	
Micrors Hested Sideview Note: Not required when ordering BLIS® (heated mirror is inleuded with BLIS®)	549	\$64.00	
Perimeter Arti-Theft Alarm  + Activated by Hood, Door or Liftgate  - Requires Key Fob (SSF)  Note: Cannot be ordered with Keyed-Alike options	593	\$125. <del>0</del> 0	
Police Engine Idle feature  - This feature allows you to leave the engine running and prevents your vehicle from unauthorized use when outside of your vehicle. Allows the key to be removed from ignition while vehicle remains idling.	47A	\$273.00	
Remote Keyless-Entry Key Fob (w/o Keypad, less PATS) — (includes 4-losy fobs) Note: Available with Keyed Alike, however, key fobs are 'not' fobbed alike when ordered with Keyed-Alike	55F	\$354,00	
Reverse Sensing	76R		
Aux Air Conditioning Note: Not available with Cargo Storage Vauit (63V)	17A	\$637.00	
Badge Delate  - Deletes the "Police Interceptor" badging on rear liftgate  - Deletes the "Interceptor" badging on front hood (EcoBoost®)	160	NC	
Gargo Storage Vault (includes lockable door and compartment light) Note: Not available with Aux Air Conditioning (17A)	63V	\$255.00	
Scuff Guards  Protective wrap edging located on front edge of both rear-doors	550	\$74.00	
My Speed Fleet Management  - Allows dealer or fleet administrator to lower the maximum vehicle speed and the maximum audio system volume using a Ford authorized IDS diagnostic service tool  - Allows the VMAX speed to be set in Smph increments (between 90 — 131 mph) Note: See Upflitter's Guide for further detail www.fortpoliceInterceptiquefit.com	496	\$64.00	
Noise Suppression Bonds (Ground Straps)	60R	CONTRACT	
Enhanced PTU Cooler — Power Transfer Unit  — Recommended Usage: EVOC Training: Continuous / Extended Track Usage  Note: This PTU Cooler is not required for day to day patrol usage  Note: Requires the 3.5L V6 EcoBoost® Engine (997)	529	\$3,057.00	
100 Watt Stren/Speaker (includes bracket and pigtall)	18X	\$314.00. / P-67H	
	أوال الشينانانان	وعاويها والمناوان والواحرة الانتجاز والمتعارفة والمتعارفة والمتعارفة والمتعارفة والمتعارفة والمتعارفة والمتعارفة	

<sup>&</sup>lt;sup>2</sup> Tested and meets the requirements of NLI Standard 0108.01 Level lit: \*7.62 x 51 mm 9.7g M80 (.308 Winchester 150gr) Per LAPD requirements, they're also designed to withstand opedial threat rounds: \*7.62 x 29 mm M9C 7.8g (Type 56) \*5.66 x 45 mm M193 3.38g \*5.56 x 45 mm M855 4g

<sup>&</sup>lt;sup>3</sup> Tested and meets the requirements of NU Standard 0108.01 Level IV:

• .80-06 M2 AP 168gr (7.62 x 63 APM2 10.8g)
Destined to withstand special threat rounds:

• 7.62 x 54R LPS 9.85g

• 7.62 x 54R LPS 9.85g

• 7.62 x 51 mm M81 9.75g (.308 Winchester 150.5gr)
In addition, Level IV+ includes all of the NU Level III and LAPD rounds listed in footnate 2.

4707 Northgate Blvd Sacramento, CA 95834

Phone: 916-646-6626 Fax: 916-646-6656

Sales Quote

Page: 1

Quote Number:

12668

Document Date:

7/1/2018

Terms:

Net 30

Payment Method:

\$ell To:

Folsom Lake Ford

12755 Folsom Blvd

Folsom, CA 95630

Tammy

Phone:

To: Tamniy

12755 Folsom Blvd

Folsom, CA 95630

Phone:

Ship Folsom Lake Ford

Ship Via

Installation

Customer ID

15075

Location:

Lehr - Sacramento

SalesPerson

Mike McGee

Blanket PO:

Vehicle Information:

2019 FORD UTILITY, Unit: NATL CITY

2019 FORD UTILITY, Unit I <mark>tem No.</mark>	Description	Category	Quantity	Unit Price	Total Price
	Referred to invoice No. 5114733:				
	Quote Requested by Tony Gaut		•		
3K2019ITU16	PB450L4 IONS	SETINALTP	1	726.00	726.00
A315P	SIREN SPEÄKER	WHELEN	1	205.00	205.00
AK51	SPEAKER BRACKET	WHELEN	1	28.00	28.00
W8RRBB	LIBERTY II	WHELEN	1	1,650.00	1,650.00
TPKT83	· STRAP KIT	WHELEN	1		
/TX609R	VERTEX RED	WHELEN	1	78,00	78.00
/TX609B	VERTEX BLUE	WHELEN	1	78.00	78.00
ONR	ION LED RED	WHELEN	1	126,00	126.0
ONB	ION LED BLUE	WHELEN	1	126.00	126.0
DNGROM	ION GROMMET MNT	WHELEN	2	5.01	10.0
CSRNTA3	CENCOM SAFFHIRE	WHELEN	1	625.00	625.0
K11191B1SSSCA	GUN RACK 1B1S	SETINA	1	729.00	729.0
-VS-1400-INUT	UTILITY CONSOLE	HAVIS	1	231.00	231.0
-E815-HLN-1P	PACE PLATE 1 PC	HAVIS	1		
C-EB40-CCS-1P	FACE PLATE 1 PC	HAVIS	1		
C-FP-2	PLT,2MS,	HAVIS	1		
S-FP-1	PLT, 1MS,	HAVI\$	1		
5-5M-800 5-5M-800	CON,SM,8TMS,0DG	HAVIS	1	109.21	109.2
2-CUP2-I	CON,ACSY,CUPHLD	HAVIS	1	35,28	35.2
MMSU-1	MAGNETIC MIC KT	MAGMIC	2	28.50	57.0
14,0553	3 ACC P/S	ABLE2	ī	25.32	25.3
2-HDM-153	FLGOR MOUNT	HAVIS	1	91,56	91.5
0-HDM-202	POLE, TELE, HDM, 8	HÄVIS	1	133,56	133.5
0-HDM-401	SUPPORT BRACE	HAVIS	1	54,60	54.6
4101	DOCK MASTER	COPELAND	1	190.00	190.6
VMO-K-DS	COAX CABLE	RADIO	1	18.50	18.9
(RAB8063	PHANTOM LOW PRO	RADIO	1	41.00	41.0
25007	SL20XP·W/DC	STRMLIGH	1	99.66	99.6
25007 DECALS	Decal Materials	OTHER	1	385.00	385.0
DS-PAN-111-1	CF31 DOCK SGL	HAVIS	1	745.00	745.0
LPS-104	CF31 POWER SPLY	HAVIS	1	171.86	1713
LP5-104 AP-GP530-W-S2-9	GPS ONLY ANT	RADIO	1	75.00	75.6



**Sales Quote** 

Page: 2

4707 Northgate Blvd Sacramento, CA 95834 Phone: 916-646-6626 Fax: 916-646-6656

Quote Number: Document Date:

12668 18/18/18/2018 Net 30

Terms:

Payment Method:

Folsom Lake Ford Sell

:Tan1my To:

12755 Folsom Blvd Folsom, CA 95630

Phone:

Ship Folsom Lake Ford

To: Tammy

12755 Folsom Blvd Folsom, CA 95630

Phone:

Ship Via

Installation

Location:

Lehr - Sacramento

Blanket PO:

Customer ID:

15075

SalesPerson

Mike McGee

Vehicle Information:

2019 FORD UTILITY, Unit: NATL CITY

Item No.	Description	Category	Quantity	Unit Price	Total Price
03-0211	UTIL HRNS FRONT	PATROLPO	1	595.00	595.00
C-ARM-101	ARM REST	HAVIS	1	65,96	65,96
PK0715ITU12TMSCA	8V\$ RP 75/25	\$ETINA	1	699,00	699.00
QK0634ITU12	CONTOUR SEAT	SETINA	1	639.20	639,20
WK0514ITU12	WINDOW GUARDS	SETINA	1	167.20	167.20
PK0316ITU122ND	12VS LEXAN PART	SETINA	1	351.20	351.20
TK02411TU12	CARGO BOX	SETINA	1	959,20	959.20
TPA9289	LOWER RADIO TRY	SETINA	1	285.60	285.60
WK0040ITU12	REAR WINDOW SET	SETINA	1	268,00	268.00
TK0476ITU12	CARGO DECK&TRAY	SETINA	1	412,00	412.00
C-MD-119	11" SLIDE ARM	HAVIS	1	264.50	264.50
B4102T	5 LB, FIRE EXT	MISC	1	85,00	85.00
C-FP-4	PLT,4MS,	HAVIS	1		
C-8825-XTL-1P	FACE PLATE 1 PC	HAVIS	1		
G	Graphics installation	OTHER	1	195.00	195.00
1	INSTALLATION CHARGES	LASOR	1	2,995,00	2,995.00
CF-BAZ1504	4GB RAM	PANASONI	1	107.00	107.00
CF-3117315KM	CF-31 LAPTOP	PANASONI	1	5,410.00	5,410.00
CF-K31HD5032	500HDD 7200RPM	PANASONI	1	162.00	162,00
C-EB25-MA5-1P	FACE PLATE 1 PC	HAVIS	1		
C-AP-0325	CON,ACSY,BOX,IM	HAVIS	1	38,64	38,64
PKILLMAG	Sîren Park Kill	LEHR	1	42.00	42.00
F	Shipping Charges	OTHER	1	250.00	250.00

Amount Subject to Sales Tax Amount Exempt from Sales Tax

20,836.07

Subtotal: Total Sales Tax: \$20,836.07 \$0.00

Total:

\$20,836.07

### d Red/White Dome Lamp

Red/Write Dome Lamp is now LED.

Note: This action was implemented on 2016 Police Interceptors models in late Nov/Dec 2015









Power Distribution Lug

Back side of 2<sup>nd</sup> rowseat. (pass, side.)

> Backside of 2nd raw seat (driver side.)

PDL (ogated under Boor panel access

Cargoarez Rooring

Standard Equipment

## Power Distribution Lug

The Power Distribution Lug has been repositioned to allow easier access for upitting.

- Previous logation was on passenger side, rear cargo area, behind fender wall
- New location is now behind. 2nd row passenger side floorboard.
- Standard Police feature
- Police Inferceptor Utility Only

Note: This action was implemented on 2016 Police Interceptor Utility models in late Nov/Dec 2015

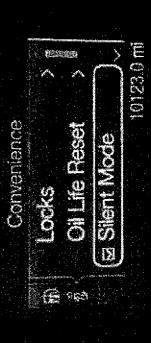


Slandard Eguipment

ndiramoni esaura papasad is ini a ingangan jayan tiga neo sisjesp it ispisa Inos and ಗಳಗುಗಳು ಕ್ಷಗಿಸಿಕಗಳ ಕ್ಷಾಗಗೆ ಶಾಲಚಿತ್ರಕ್ಷರಗಳಿಗಳುಗಳಿಯೇಗುವರು ಕ್ಷತ್ರಕ್ಷಾ ನಿಕ್ಷತ್ರಕ್ಷದ ಸಂಗರ್ಭ

## RE/SILENT MODE 2017MY DARK C

# Silent Mode Select In Cluster Setting



U C S

llent Mode Option Code.

103 of 385

## **SURE/SILENT MODE** 2017MY DARK CA

### 2016RX

Base Police Functionality (configured 100% std.)

No Locking Hörn Feedback No Locking Light Feedback

No Un-Locking Light Feedback

Dark Car Feature (when ordered)

Courtesy Lighis OFF Welcome/Farewell OFF

### 2017NNY

Base Police Functionality (configured 100% ತಡೆ))

No Locking Horn Feedback

No Locking Light Feedback No Un-Locking Light Feedback

If DRLs not ordered: No change vs. 2016MY

If DRLs ordered: May order Silent Mode only

Silent Mode (when enabled)

➤ Courtesy Lights OFF

Welcome/Farewell QFF

- Ability To Turn OFF Cluster/Center Stack Lighting Via-Dimmer Switch

/ DRISHOFF

Daytime Running Lights Always On

Ability To Turn OFF Cluster/Center Stack

Lighting Via Dimmer Switch

CSilent Mode (ornen disabled)

Countesy Lights ON

WelsomerFarewell ON Ability To Turn OFF Claster

Lighting Viz Dimmer Swit

DRLS - ON

## Ballistic Panel

lested and meets the requirements of NIJ Standard 0108.01 Level IV: .30-06 M2 AP 166gr (7.62 x 63 APM2 10.8g)

Designed to withstand special threat rounds: 7.62 x 54R LPS 9.65g

7.62 x,51 mm N61 9.75g (,308 Winchester 150.5gr)

In addition, Level IV includes all of the NIJ Level III and LAPD rounds listed below: Per LAPD requirements; they related designed to withstand special

Wrest rounds: - 7.62 x 39 mm MSC 7.9g (Type 56) - 5.55 x 45 mm M193 3.35g - 5.55 x 45mm M855 4g

2016WY Police Interceptors beginning Warch 15, 2016 This action was made available for production on Note

Levei IV: Driver Side 90F Level IV: DriveriPassenger Side 90G

Februes, polony and chechny comen space to Canee . Peace the Courticates of Camer can laber of Matteriu

ming Lights Front Interior Winds

> Joillan Ga (96/A)

106 of 385

糖。

## Varming Lights Front Interior W

Take on a stealth appearance with this low profile Front Interior Windshield Warning Lights

- The interfor visor light is a super low-profile warning light bar fully integrated into the top of the windshield
- New interior visor light to provide a cover feature for agency paint vehicles
  - Dark shade band at the top of the windshield is replaced by clear glass when the visor light is ordered, providing superior cofor visibility and brightness.
- The interior visor light comes with a limited warranty and maintains the spacious interior feel that many agencies love about the latest generation of Ford Police Interceptors
- When activated, the interfor visor light flashes bright, afternating red and blue bars on the top of the windshield and can be programmed for red/red or blue/blue operation
- The visor light also features bright white "take down" and 'scene" capabilities, which give excellent forward visibility, and can be set up to meet California Title 13 requisitors.
  - to meet California Title 13 regulations.
    The visor light can also be programmed from full intensity down to 20% as needs dictate.

NOTE: Police Interceptor Utility, Only

Sption Code:

## Police Eng

evelicie from unauthonzed use when outside of your vehicle. Allows the key to be removed from ignition while vehicle renains iding. This feature allows you to leave the engine running and prevents yo

### Switching the System On:

- With your vehicle running and the transmission in park (P) press the button on the instrument. panel. Awarning lamp liluminates to confirm the system is on
  - Switch the ignition off and remove the key.

### When the system is on.

- The power windows are disabled and the windows remain in their current state
- The power door locks are disabled and all doors remain in their current locking state. Note: The doors can be unlocked with the key blade
  - The liftgate or luggage compartment does not epen but can be opened with the key

### To Switch the System Off.

- The system can be switched "off" by doing any of the following:

   Inserting the key and switching the ignition to the run position.
  - Pressing the button on the instrument panel.
- Note: If you switch the system off before switching the Ignition to the run pasition your vehicle shuis down

### Орлюп Сосе (47A)

with your death on death seament www.drinedeath com for the first seament for an म्हास्यक्तं क्रिक्टिक इन्त्री स्वयंत्र्यक स्मारिक स्वयंत्री व इत्तरम्



QUOTE TO: National City Police - Graham Young - 619-336-4514

PREPARED BY: Andy Orderin 658-864-3660 parimm@daywireless.com

DATE: July 3, 2018

Quote Valid (hirough December 31, 2618 Quote # QU0800333555AG

			Francisco de la Constantina del Constantina de la Constantina del Constantina de la	List Price	Unit Discounted		Tolal Extended Discount Price
*Line fi	Qly	Part Number	item Description ARXG500 Möbile Radio Single O5	Haaris Assess			
1013	i abXai	M25URS9PW1AN	APX6500 7/800 MHZ MOBILE RADIO	\$2,438.00		<b>以是自己产品的企业</b> 。	
10		W22BA	ADD: PALM MICROPHONE	\$72.00			
10		G806BE	ENR: ASTRO DIGITAL CAI OP APX	\$515.08	\$321,88		
10	MINIE	G442AJ	ADD; O5 CONTROL HEAD	\$432.00	\$270.80	Parado Richarda	
10	116.316	G67BC	ADD: REMOTE MOUNT MID FOWER	\$297.00	\$185.63	esterativi (Plane ob	
1e		G444AE	ADD: APX CONTROL HEAD SOFTWARE	\$0.00	\$0.00	(1) (2) (1) (1) (1) (1) (1) (1) (1) (1) (1) (1	,
1f		G361AH	ADD: P28 TRUNKING SOFTWARE	\$300.00	\$0,00		
		G51AU	ENH: 5MARTZONE OPERATION APX6500	\$1,200.00	\$750.00	Variet builtings	***************************************
		G335AW	ADD; ANT 1/4 WAVE 762-870 MHZ	\$14,00	\$8,75	is oat to	<del></del>
1]		B18CR	ADD: AUXILIARY SPKR 7.5 WATT	\$80.00	\$37,50		
11		GA0058DAA	ADDI TOMA OPERATION (P25 PHASE 2)	\$450.00	\$201,20		
1k		GA80235AA	ADDI NO GPS ANTENNA NEEDED	\$0.00	\$0.00	and the Assessment	
11		G996AS	ADDI OVER THE AIR PROGRAMMING (OTAP)	\$100.00			
1m		W599BF	ADD: 8 MODE DEK BOX	\$180.00	\$112.50		
	用核构	THE RESERVE AND ADDRESS OF THE PARTY OF THE		i mare e e e e e e e e e e e e e e e e e	ACCIONATION OF THE PROPERTY OF	Action of the second se	3800 3800 <b>404 E00</b> 7E05
///ana	3.6.0	TAX SECTION SECTION	TOTAL APX8500 MOBILE SINGLE OSHEAD CONTROL	1 1 2 3 D 1 0 S O I U D 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	18:44-43:4910a0110	200000000000000000000000000000000000000	Sammer of the Principles
I	<u></u>			L	1	otal Equipment:	\$21,592,58
			•		8.75 % 1	x on Equipment	\$1,889.35
					Total Eq	uipment and Tax	\$23,481.91
	<u> </u>	I	The state of the s				
2			3 Year Warrenty Service from the Start	\$131.00	\$0.00		\$0.00
3.3	逐計學	SVC03SVC0124D	install new mobile radios in 6 new police vehicles ensite		\$4,248.00	L	\$4,248.00
				<ul> <li>Order Total</li> </ul>	(Equipment, To	ax, Warranty):	\$27,729.91

Discounted Pricing from San Diego County RCS Contract # 553982. Shipping is included at No Charge. PO's must be made out to Motorola Solutions; INC (not Day Wireless).

#### LPA Contract Details

#### Contract ID 1-18-23-14B

Contract Type

Acquisition Type

Status

Statewide Contract

NON-IT Goods

Active

Description

Enforcement Vehicles, Police Pursuit

Supplier Name

FOLSOM LAKE FORD

Supplier ID 0000006908

Begin Date 06/07/2018

Expire Date

06/06/2020

#### **Contract Administrator**

Buyer

Email

Rudolph Jimenez

rudolph.jlmenez@dgs.ca.gov

Department

Phone

DGS - Statewide Procurement

#### **Attachments**

1-3 of 3

#### Attachment File

Attachment\_1\_-\_Pricing\_Worksheets.xlsx

Attachment\_2b\_-\_Bid\_Specs\_2310-4444-Utility,\_dated\_41218.pdf

CUI\_-\_23-14\_(A\_B).pdf

#### **Contract Line Items**

1 of 1

item iD

Description

Unit UOM Price UNSPSC Description

MFG

MFG Item

EPP/SABRC Status

See Attached Pricing

Worksheets

Each

25101702 Police vehicles

Name I

Œ

Active

		GRO	SUP	<b>GROUP 2 - UTILITY</b>	LITY			
1-18-23-14B	FOLSOM LAKE FORD	FC	FORD UTILITY	LITY				
Contact Line Item # (CLIN)	Item Description	Unit of Measure (UOM)	Quantity in Unit of Measure	Manufacturer (OEM)	Model	Manufacurer (OEM) Part Number	SKU #/Item #	Contract Unit Price
201	Law Enforcement Utility Vehicle with Police Package in accordance with specification #2310-4444 dated 04/12/2018	Each	+	FORD	UTILITY	K8A	K8A	\$30,994.65
202	5yr. / 100,000 mi Extended Powertrain Warranty Utility Vehicle	Each	1	n/a	e/u	FOMOCO	NA	\$0.00
203	OPTIONAL BADGE DELETE: Manufacturer's nameplate(s) / badge(s) shall be removed from the vehicle on both front doors below the window belt molding and on the taligate. "After-factory" dealer nameplate / badge removal is acceptable if factory badge delete is unavailable from the manufacturer.	Each	-	n/a	п/а	16D	16D	\$0.00
205	BALLISTIC DOOR PANEL DELETE OPTION: Remove front driver and passenger door mounted ballistic panels.	Set	2	COORSTEK	NIJ LEVEL III	30E	30E	\$3,041.50
Segment ID/Group ID	Option Description	Unit of Measure	Quantity in Unit of Measure	Manufacturer (OEM)	Manufacture r Part Number	Contract Catalog Discount %*	Contract Unit Price	Contact Dealer for catalog.
	Keyed Alike Vehicles	SET	4 EA	FORD	PER-CODE		\$59.00	Only options listed on the Dealer's published
4	Trailer Towing Package	EACH	1 EA	AFTER MKT	NA	%00.0	\$388.00	commercial price list (catalog) shall be available to the purchasing agencies and shall be
	Daytime Running Lights (DRL)	SET	2 EA	FORD	942		\$46.00	designated as Non-Core Options.



# STATE OF CALIFORNIA BID SPECIFICATION UTILITY VEHICLE, LAW ENFORCEMENT HIGH SPEED POLICE PURSUIT

2310-4444

#### 1.0 SCOPE:

This specification describes the State of California minimum requirements for an **all or rear wheel drive** utility vehicle to be used in high-speed highway traffic and general law enforcement work. The vehicle will at times be operated at speeds in excess of 100 miles per hour for both short and long durations. It will be driven on all types of roads, and road surfaces and at altitudes ranging from approximately 200 feet below sea level to 10,000 feet above sea level. Ambient temperatures to which the vehicle will be exposed will range from approximately 0°F to 120°F.

The manufacturer shall use components, materials and design practices that are the best available in the industry for the type of operational conditions to which the vehicles will be subjected. Engine, transmission, driveline, differential, brake, suspension, wheel, tire and other component parts of the vehicle shall be selected to give maximum performance, service life, as well as safety and not merely meet the minimum requirements of this specification. Where necessary, the component parts shall exceed the usual quantity, quality, or capacity generally supplied with standard production vehicles in order to withstand the unusual strain, exposure, temperature, wear and use required for a police application.

#### 2.0 RULES AND REGULATIONS:

Vehicles shall comply with all applicable California Vehicle Code (CVC), Code of Federal Regulations, Title 49, "Federal Motor Vehicle Safety Standard" (FMVSS) and California Code of Regulations, Title 13, "Motor Vehicles" rules and regulations (except emissions regulations). Vehicles shall also comply with Society of Automotive Engineers (SAE) J 1100, "Motor Vehicle Dimensions" in addition to all other applicable SAE standards. In addition, all vehicles shall comply with all other Federal and State rules, regulations and safety standards applicable to the vehicle type in effect on the date of the opening of the invitation for bid. Vehicles shall meet 50 State emissions requirements that allow the resale of these vehicles to the general public as originally equipped upon emergency vehicle "service life" completion.

#### 3.0 VEHICLE:

All vehicles offered in compliance with these specifications shall be the manufacturer's "Police Pursuit Utility Vehicle" rated model and shall be suitable for high-speed pursuit and emergency driving. All vehicles shall meet the following minimum specifications:

#### 4.0 REQUIREMENTS:

- 4.1 General: Each vehicle shall be new (unused), current model year production. Each vehicle shall be supplied with all equipment and accessories indicated as standard equipment in the manufacturer's published literature unless specifically deleted as stated in this specification. Optional equipment necessary to meet the requirements of this specification shall also be installed.
- **Engine:** The engine shall be a manufacturer's "Police Package" configuration equipped with altitude compensating electronic fuel injection.

The engine shall have a displacement, to be determined by the manufacturer, sufficient so that all performance requirements described in Section 1.0, Scope and Section 4.25, Performance Requirements are achieved.

The engine shall be designed to operate knock free at all engine and vehicle speeds on unleaded fuel with a minimum octane rating of 87 (RM + MM  $\div$  2).

- **Engine Oil Cooler:** An auxiliary engine oil cooler shall be installed if required to maintain oil operating temperatures ≤ 300°F, under operating conditions described in the Section 1 of this specification.
- **4.4 Fuel Supply System:** The fuel supply system shall be of such a design to eliminate vapor lock when the engine is operating in high ambient temperatures or during periods of extended idling.
- **4.5** Fuel Tank: The fuel tank furnished shall be the largest capacity available.
- 4.6 Cooling System: The cooling system shall be liquid pressurized, forced circulation type. The manufacturer shall provide the heaviest duty cooling system components and recovery system applicable to the model offered. The cooling system design and capacity shall maintain the engine at optimum temperature, under all operating conditions specified, without any loss of coolant or overheating of engine and components. The cooling system shall be free of contaminants that may affect cooling system component longevity and performance. Optimum engine temperature shall be maintained with the vehicle loaded to the vehicle manufacturer's published maximum gross vehicle weight rating (GVWR) and continually operated in all operating environments described within the scope of this specification.
- **Electrical System:** The electrical system shall be 12 volt negative ground. All wiring shall include weather proof connectors.

The vehicle battery shall be the optional heaviest duty type available, compatible with the vehicle charging system and intended for police service. The vehicle battery shall have a minimum of 700 cold cranking amps, with a manufacturing date not exceeding six (6) months prior to vehicle delivery. Vehicles will not be accepted with batteries exhibiting less than 90 percent of full charge at time of delivery.

The generator/alternator shall be the highest capacity optional generator/alternator listed in the manufacturer's current police package brochure applicable to the vehicle bid. It shall have a minimum 170 amp output.

- 4.8 <u>Transmission</u>: The transmission shall be fully automatic transmission equipped with auxiliary transmission fluid coolers, if necessary, to maintain oil operating temperatures not to exceed 275°F, maximum. Console or floor mounted shifters are acceptable, but must be capable of allowing the installation of CHP radio and equipment.
- **4.9** Brakes: The brakes shall be power assisted and feature an anti-lock brake system (ABS). All four wheels shall be equipped with disc brakes. Friction material shall be designed for police applications.
- 4.10 Wheels and Tires: Each vehicle shall be supplied with five (5) matching wheels and tires. One (1) of the five (5) shall be a matching full size wheel and spare tire. A space saver type spare tire is not acceptable. The wheels shall have a safety ridge rolled into the rim or otherwise designed to prevent the tire from separating from the wheel in the event of a flat. Wheels shall be steel construction, designed for police applications. Lug nuts shall be covered with a center cap. Manufacturer's standard Tire Pressure Monitoring System shall be supplied. If a tire pressure activation tool is needed to reset the light on the tire pressure monitoring system, one tool shall be provided for each vehicle as part of this requirement.

The vehicle manufacturer shall test and certify tires as acceptable for original equipment and replacement installation on the police package vehicle specified in this invitation for bid.

Any wheel weights used shall be "non-lead" type.

- **4.11** Suspension: The front and rear suspension including shock absorbers shall be designed for police work. Front and rear stabilizer bars are required.
- **4.12** <u>Differential:</u> The differential shall be the conventional type, ring and pinion gears, with a ratio designed to give the best overall performance for the transmission and tire size installed on vehicle. The gear ratio shall be the same on all vehicles.
- **4.13** Radio Suppression: The system shall not cause or be affected by any electrical magnetic interference (EMI) or radio frequency interference (RFI) including but not limited to the following radio frequencies currently in use by CHP vehicles:
  - Low Band: 39 46 MHz Transmit and Receive
  - Repeaters: 153 -155 MHz Transmit and Receive
  - Radio, UHF 440 490 MHz Transmit and Receive
  - Allied Radio 806 870 MHz Transmit and Receive
  - Allied Radio 581 866 MHz Transmit and Receive
  - Allied Radio 159 173 MHz Transmit and Receive
  - Allied Radio 150 174 MHz Transmit and Receive
  - Radio / Repeater 764 806 MHz Transmit and Receive
  - Canines 26 28 MHz Receive
  - Canines 303.9 MHz Receive
  - Computers: 896-901 MHz Transmit, 935-940 MHz Receive
  - Canines: 303.875 MHz Receive

The system should not cause more than one (1) dB of radio degradation at the antenna whether it be radiated or conducted radio frequency interference (RFI), or electromagnetic interference (EMI). If the system causes any two or all three types of interference, the total combined allowable receiver degradation is 1 dB at all CHP frequencies.

See Exhibit 2 for radio degradation testing details.

**4.14 Body:** The body shall be a four door, sport utility with center post. Protective side molding shall not be installed on the vehicle. This is to permit installation of an Agency insignia (33" long by 20" high) without trim interference.

The wheel wells shall be constructed so that OEM approved tire chains or cables may be installed in a conventional manner, without clearance problems and without causing body or structural damage to the vehicle.

4.15 Exterior Color: The body shall be painted manufacturer's gloss black. The roof panel and lower portion of both front doors below the window belt line shall be painted manufacturer's gloss bright white. After-factory applied paint to accomplish the white portion of the two-tone paint scheme is acceptable if factory applied black and white two-tone paint configuration is unavailable from the manufacturer.

- 4.16 Interior/Seat Upholstery: Front seats shall be bucket type accommodating the installation of a center console by the end user. A 60/40 split bench / bucket type seat is not acceptable. The driver's seat shall be power adjustable and shall be designed for maximum comfort, support and durability. The front and rear seat shall be the manufacturer's standard cloth upholstery. (A vinyl rear set is acceptable provided the manufacturer warranties the vinyl seat material against sun and heat damage for not less than three (3) years.)
- 4.17 Speedometer: The vehicle described in this specification will be used in law enforcement and speedometer accuracy is essential. The speedometer shall be calibrated and be accurate within two (2) miles per hour at speeds from 15 to 100 miles per hour of the true vehicle speed, within the environmental operating conditions specified in Section 1.0 Scope. The dial face shall be marked up to a minimum of 140 miles per hour. The design of the speedometer shall be such to insure accuracy throughout the life of the vehicle. The face markings shall be in increments no greater than two (2) miles per hour. If the manufacturer has available a digital display speedometer, the vehicle shall be so equipped. A letter of certification of accuracy shall be provided with each unit and shall be applicable to both digital and analog displays. The bidder shall specify the size of tires for which the speedometer is certified. The speed indicator pointer shall not cover more than a two mile per hour section of the scale.
- **4.18** Payload: The vehicle shall have a minimum payload of 1500 lbs when configured in the standard Police Pursuit rated version.
- **4.19** Radio: Vehicle shall be factory equipped with the factory base radio and at least two (2) front mounted radio speakers and two (2) rear mounted radio speakers.
- 4.20 Spotlights: Factory installed A-Pillar incandescent spotlights with 2 wire handles.
- 4.21 <u>Hood-Latch Release:</u> The hood latch release shall be mounted inside the front passenger compartment so that the hood can not be readily opened from outside the vehicle. The release shall be readily accessible to the seated driver.
- **4.22 Floor Covering:** The floor covering of the front and rear floor may be standard rubber, vinyl or carpet. The color shall be keyed to the upholstery color. OEM floor mats shall be included for carpeted vehicles.
- **4.23** Interior Area: The Vehicle shall be equipped with 1st and 2nd row seats only, and shall have a seating capacity of minimum 5.
- **4.24** <u>Miscellaneous Equipment:</u> The vehicle shall be equipped with the following miscellaneous equipment:
  - · Backup camera with display
  - Reverse sensing
  - Heated driver and passenger mirrors
  - Tilt steering wheel
  - Fresh air type heater and defroster. Refrigeration air conditioning of a size and type recommended and installed by the manufacturer of the vehicle.
  - Intermittent windshield wiper system.
  - Fuel level and water temperature indicator gauges.
  - 12-volt DC power outlet in front compartment.

- Ballistic Door Panels (left front and right front doors), threat level 3 or better. (Door Panels shall meet and pass National Institute of Justice Certification level III test standards. Testing certification shall be provided upon request.)
- Cruise control
- Dual electric horns or dual note horn.
- Headlight wigwag capability.
- Map/dome/courtesy light(s) which provide the following functions:
  - When vehicle front doors are opened, none of the interior map/dome/courtesy light(s) shall illuminate automatically.
  - At least one map/dome/courtesy light (at both front and second row) that shall be manually operated to illuminate the seating areas.
- Quick release style driver's side inside door handle to allow the driver's door to be unlocked by pulling on the inside handle.
- Driver and front passenger front impact air bag.
- Driver and front passenger side impact air bag.
- All four (4) doors shall contain power locking and unlocking mechanisms controlled by switches located on the driver's side door control panel.
- All four windows shall be power actuated and controlled from the driver's side door control
  panel with a lockout feature to prevent other windows from being operated when locked out
  by the driver.
- · Rear window defogger/defroster on a separate switch.
- The vehicle shall use the same single key or fob for ignition, doors, rear, and glove box (if vehicle includes). A set of four (4) total keys or fobs shall be supplied for each vehicle. Each vehicle shall be keyed individually.
- Arm rests on each of the four (4) doors (arm rests in rear passenger compartment may be mounted on other than the door if vehicle is so designed).
- Left and right remote control outside mirrors. Similar in appearance and mounted on left and right front doors. Both mirrors shall be controllable from the driver's seat.
- · Windshield and all windows shall feature tinted glass.
- Light in rear cargo area with rear cargo door actuated switch.
- Standard tool kit including wheel changing tools and jack adequate to safely lift the vehicle.

#### 4.25 Performance Requirements: See Exhibit 1 for testing methodology.

#### 4.25.1 All vehicles shall meet the following Top Speed and Acceleration requirements:

- 0 to 60 miles per hour in 9.0 seconds or less.
- 0 to 100 miles per hour in 23.0 seconds or less.
- 50 to 100 miles per hour in 18.0 seconds or less.
- Attain a top speed of not less than 130 miles per hour within a distance of two (2) miles.
- 0 to 60 miles per hour in 11.0 seconds or less at approximately 5,500-6,000 feet of elevation.

#### 4.25.2 All vehicles shall be tested for the following Vehicle Dynamics:

- Steering- Response, Road Feel
- Suspension- Roll Resistance, Front-end Dive, Rear-end Squat
- Handling- High-speed Curves, Medium-speed Curves, Tight Cornering, Predictability

4.25.3 All vehicles shall meet the following Braking requirements/tests.

#### **ABS Braking:**

- Full ABS stop from 90 MPH. Stopping distance shall not to exceed 325 feet
- · Vehicle stops in a straight line

#### **Pursuit Course Testing:**

- No Evidence of Excessive Brake Pedal Travel or Brake Fade
- · Braking System Provided Acceptable Stopping Power
- No Steering Pull or Wheel Lock-Up
- No flame occurring within the test.



Department of General Services Procurement Division 707 Third Street, 2<sup>nd</sup> Floor West Sacramento, CA 95605-2811

### State of California

## **CONTRACT USER INSTRUCTIONS**

\*\*\*\* MANDATORY \*\*\*\*

ISSUE AND	EFFECTIVE DATE: 6/7/2018
CONTRACT NUMBERS:	1-18-23-14A – Elk Grove Auto Group (Dodge Charger)
	1-18-23-14B – Folsom Lake Ford (Ford Sedan and Utility)
DESCRIPTION:	Enforcement Vehicles, Police Pursuit (SEDANS) and (UTILITIES)
CONTRACTOR(S):	Elk Grove Auto Group Folsom Lake Ford
CONTRACT TERM:	6/7/2018 through 6/6/2020
STATE CONTRACT ADMINISTRATOR:	Rudolph Jimenez (916) 375-4390 Rudolph.Jimenez@dgs.ca.gov

The contract user instructions, products, and pricing are included herein. All purchase documents issued under this contract incorporate the contract terms and applicable California General Provisions: (GSPD-401 Non-IT Commodities, rev 06/08/2010)

Cal eProcure link: www.caleprocure.ca.gov

UR	DER PLACEMENT INFORMA	
U.S. Mail	Fax/Email	Contact Information
Elk Grove Auto Group 8575 Laguna Grove Drive Elk Grove, CA 95757	(530) 884-4141 dwanefleet@hotmail.com	Dwane Galatti (916) 429-4702
Folsom Lake Ford 12755 Folsom Blvd Folsom, Ca 95630	(916) 353-2078 danr@folsomlakeford.com markp@folsomlakeford.com	Dan Raimondi (916) 353-2000 Ext. 376 Mark Paoli (916) 353-2000 Ext. 307

ORIGINAL SIGNATURE ON FILE	6/7/2018
Rudolph Jimenez, Contract Administrator (CA)	Date:

#### Contract User Instructions

#### 1. SCOPE

The State's contract with Elk Grove Auto Group and Folsom Lake Ford provides Enforcement Vehicles, Police Pursuit (Sedans) and (Utilities) at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-18-23-14 (A, B). The contractor shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of Enforcement Vehicles, Police Pursuit (Sedans) and (Utilities) to the State.

The contract term is for two (2) years with an option to extend the contract for two (2) additional one (1) year period or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term.

#### 2. CONTRACT USAGE/RULES

#### A. State Departments

- . The use of this contract is mandatory for all State of California departments
- Ordering departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 2 and 3, as applicable.
- Prior to placing orders against this contract, departments must have been granted non-IT purchasing authority by the Department of General Services, Procurement Division (DGS/PD) for the use of this statewide contract. The department's current purchasing authority number must be entered in the appropriate location on each purchase document. Departments that have not been granted purchasing authority by DGS/PD for the use of the State's statewide contracts may access the Purchasing Authority Application at <a href="http://www.dgs.ca.gov/pd/Programs/Delegated.aspx">http://www.dgs.ca.gov/pd/Programs/Delegated.aspx</a> or may contact DGS/PD's Purchasing Authority Management Section by e-mail at <a href="mailto:pams@dgs.ca.gov">pams@dgs.ca.gov</a>.
- Departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. Ordering departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.

#### B. Local Governmental Agencies

- Local governmental agency use of this contract is optional.
- Local government agencies are defined as "any city, county, city and county, district or other governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges", empowered to expend public funds for the acquisition of products, per Public Contract Code Chapter 2, Paragraph 10298 (a) (b). While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations.
- Local governmental agencies shall have the same rights and privileges as the State under the terms
  of this contract. Any agencies desiring to participate shall be required to adhere to the same
  responsibilities as do State agencies and have no authority to amend, modify or change any condition
  of the contract.
- C. Unless otherwise specified within this document, the term "ordering agencies" will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each article.

#### Contract User Instructions

#### 3. DGS ADMINISTRATIVE FEES

#### A. State Departments

The DGS will bill each State department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

Current fees are available online in the Price Book & Directory of Services located at: <a href="http://www.dgs.ca.gov/ofs/home.aspx">http://www.dgs.ca.gov/ofs/home.aspx</a> (Go to Price Book and click on "Purchasing" under Procurement Division.)

#### B. Local Governmental Agencies

For all local government agency transactions issued against the contract, the Contractor is required to remit the DGS/PD an Incentive Fee of an amount equal to 1% of the total purchase order amount excluding taxes and freight. This Incentive Fee shall not be included in the agency's purchase price, nor invoiced or charged to the purchasing entity. All prices quoted to local governmental agency customers shall reflect State contract pricing, including any and all applicable discounts, and shall include no other add-on fees.

#### 4. EXEMPT PURCHASES

There is no Exempt Purchases associated with this contract.

#### 5. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE

Ordering agencies and/or contractors shall inform the State CA of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc.

For contractor performance issues, ordering agencies must submit a completed <u>Supplier Performance Report</u> via email or facsimile to the State CA identified in Article 23, Contract Administration. The ordering agency should include all relevant information and/or documentation (i.e. Purchase documents).

#### 6. CONTRACT ITEMS

The following vehicles are available for purchase.

	GROUP 1 - SEDAN	
1-18-23-14A - Dodge Charg	r Police Pursuit Sedan	
1-18-23-14B - Ford Police P	rsuit Sedan	
	GROUP 2 - UTILITY	
1-18-23-14B - Ford Police P	rsuit Utility	

#### 7. SPECIFICATIONS

All products listed on Attachment A, Contract Pricing, must conform to the State of California Bid Specification Number 2310-4264-Sedan, dated 4/12/2018, Attachment 2a and State of California Bid Specification Number 2310-4444-Utility, dated 4/12/2018, Attachment 2b.

#### 8. CUSTOMER SERVICE

Contractor will provide office and personnel resources for responding to requests, including telephone coverage weekdays during the hours of 8:00 AM through 5:00 PM (PT).

#### Contract User Instructions

#### 9. PRODUCT SUBSTITUTIONS

Product substitution shall be in accordance with the General Provisions, section 16 entitled "Substitutions".

#### 10. PROMOTIONAL PRICING

The Contractor shall immediately notify the State CA of all manufacturers' price declines and the State shall receive full benefit of such declines, effective on the date of manufacturer's public announcement.

#### 11. PURCHASE EXECUTION

#### A. State Departments

#### 1) Std. 65 Purchase Documents

State departments not transacting in FI\$CAL must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the Office of State Publishing web site: <a href="http://www.dgs.ca.gov/pd/Forms.aspx">http://www.dgs.ca.gov/pd/Forms.aspx</a> (select Standard Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Commodity Code Number
- Product Description
- Unit Price
- Extension Price

#### 2) FI\$CAL Purchase Documents

State departments transacting in FI\$CAL will follow the FI\$CAL procurement and contracting procedures.

#### 3) Blanket Orders

The use of blanket orders against this statewide contract is not allowed.

#### A. Local Governmental Agencies

Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number is used by State departments only).

#### 12. MINIMUM ORDER

The minimum order shall be one (1) vehicle.

#### Contract User Instructions

#### 13. ORDERING PROCEDURE

#### A. Ordering Methods:

Ordering agencies are to submit appropriate purchase documents directly to the contractors via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The contractor's Order Placement Information is as follows:

ORD	ER PLACEMENT INFORMA	TION
U.S. Mail	Fax/Email	Contact Information
Elk Grove Auto Group 8575 Laguna Grove Drive Elk Grove, CA 95757	(530) 884-4141 dwanefleet@hotmail.com	Dwane Galatti (916) 429-4702
Folsom Lake Ford 12755 Folsom Blvd Folsom, Ca 95630	(916) 353-2078 danr@folsomlakeford.com markp@folsomlakeford.com	Dan Raimondi (916) 353-2000 Ext. 376 Mark Paoli (916) 353-2000 Ext. 307

#### 14. ORDER ACCEPTANCE

The Contractor shall accept orders from any State department or local governmental agency. The Contractor shall <u>not</u> accept purchase documents for this contract that:

- Are incomplete;
- Are submitted without CA approval of non-core items
- · Contain non-contract items; or
- Contain non-contract terms and conditions.

The Contractor must not refuse to accept orders from any State department or local governmental agency for any other reason without written authorization from the CA.

#### 15. ORDER RECEIPT CONFIRMATION

The Contractor will provide ordering agencies with an order receipt confirmation, via e-mail or facsimile, within 48 hours of receipt of purchase document. The Order Receipt Confirmation shall include the following information:

- Ordering Agency Name
- Agency Order Number (Purchase Order Number)
- · Purchase Order Total Cost
- Anticipated Delivery Date

#### 16. OUT OF STOCK REMEDY

Upon receipt of order acknowledgment identifying out of stock items, the ordering agencies shall have the following options:

Request back order; or

#### Contract User Instructions

Cancel the item from the order with no penalty.

Contractor will provide notification to the ordering agencies regarding out-of-stock items which have been back ordered.

Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products.

#### 17. DISCONTINUED ITEM REMEDY.

Upon receipt of order acknowledgment identifying discontinued items, the ordering agencies shall have the following options:

- Amend purchase document to reflect State-approved substitute item, per Article 9, Product Substitutions/Discontinued Items)
- Cancel the item from the order.

Under no circumstance is the Contractor permitted to make substitutions with non-contract items or unauthorized products without approval from the CA.

**Note:** If an OEM ends production on the model year vehicle bid and a replacement is not available, the contract shall be terminated effective the date of the notification to the CA.

#### 18. DELIVERY SCHEDULES

Delivery for orders placed against this contract shall be in accordance with the following:

#### A. Pre-Delivery Checklist

Prior to delivery, each vehicle shall be completely inspected, serviced and detailed by the delivering dealer and/or the manufacturer's pre-delivery service center. A copy of the pre-delivery checklist shall be completed for each vehicle, signed by a representative of the organization performing the inspection/service, and delivered with the vehicle

#### B. Locations

Deliveries are to be made (statewide) to the location specified on the individual purchase order, which may include, but not limited to inside garages and parking lots.

#### C. Schedule

Delivery made to any State department is to begin within 90 days after receipt of order (ARO). State departments may limit delivery to a maximum of ten (10) units per working day.

Delivery to local agencies is to be completed in full within 150 days ARO.

Since receiving hours for each ordering agency will vary by facility, it will be the Contractor's responsibility to check with each facility for their specific delivery hours before delivery occurs. The Contractor must notify the ordering agency within 12 hours of scheduled delivery time, if delivery cannot be made within the time frame specified on the Order Confirmation.

Contractor is requested to make deliveries in Los Angeles County, Orange County, San Bernardino Metropolitan Area, and San Diego Metropolitan Area during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM.

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#### Contract User Instructions

#### D. Security Requirements

Deliveries may be made to locations inside secure institutional grounds (such as the California State Prisons) that require prior clearances to be made for delivery drivers. Since security clearance procedures for each facility may vary, it will be the Contractor's responsibility for contacting the secure location for security clearance procedures, hours of operation for deliveries and service, dress code, and other rules of delivery.

<u>Note:</u> In accordance with paragraph 15 of the General Provisions entitled "Delivery", the contractor shall strictly adhere to the delivery terms and completion schedule as specified in this solicitation. Failure to comply with the delivery requirements, as stated, may be considered a breach of contract and subject the contractor to General Provisions 26, entitled "Rights and Remedies of the State for Default".

#### 19. FREE ON BOARD (F.O.B.) DESTINATION

All prices are F.O.B. destination; freight prepaid by the contractor, to the ordering organization's receiving point. Responsibility and liability for loss or damage for all orders will remain with the contractor until final inspection and acceptance, when all responsibility will pass to the ordering organization, except the responsibility for latent defects, fraud, and the warranty obligations.

Delivery shall be FOB Destination to the California Highway Patrol (CHP), Fleet Operations, 3300 Reed Ave., West Sacramento, California 95605.

Vehicles shall be delivered from the factory to the dealer's place of business. If the purchase order indicates delivery outside an FOB point, the dealer and agency will negotiate for delivery beyond the FOB point. This delivery may be subject to an additional delivery charge by the resulting contractors. This charge shall be shown as a separate item on the purchase order and invoice.

State agencies requesting delivery outside the FOB area must contact the Office of Transportation Management for freight rate comparisons if the dealer is delivering the vehicle. These delivery instructions will be provided on the purchase order. Dealers receiving a purchase order without specific transportation instructions must contact the ordering agency.

Caravan or drive-away method of delivery from the factory to a dealer is not acceptable.

The supplier shall insure that each vehicle reaches its delivery point with no less than five (5) gallons of fuel in the fuel tank.

Drop ship deliveries shall not be made without prior State inspection.

Vehicles delivered from a dealer with more than 50 miles on the odometer will be charged 50 cents for each mile exceeding 50 miles. This charge shall be deducted from the order price for each vehicle delivered against each order. Vehicles delivered with more than 250 miles on the odometer will not be accepted.

#### 20. SHIPPED ORDERS

All shipments must comply with General Provisions (rev 06/08/2010); Paragraph 12 entitled "Packing and Shipment". The General Provisions are available at: <a href="http://www.documents.dgs.ca.gov/pd/modellang/GPnonIT060810.pdf">http://www.documents.dgs.ca.gov/pd/modellang/GPnonIT060810.pdf</a>.

#### 21. HAZARDOUS MATERIALS DOCUMENTATION

For products that contain hazardous chemicals, as defined by California Code of Regulations, Title 8, Section 339, the Contractor must provide a Material Safety Data Sheet (MSDS), via facsimile or email, to the ordering agency upon written request.

#### Contract User Instructions

#### 22. INSPECTION AND ACCEPTANCE

Vehicles ordered for State use will be inspected by a State Inspector at the dealer's place of business. Inspection will commence within five (5) State working days of notification that a vehicle is ready for inspection. Inspection will include: specification compliance, workmanship, appearance, proper operation of all equipment and systems, and that all documents are present. In the event deficiencies are detected, the vehicle will be rejected and the delivering dealer will be required to make the necessary repairs, adjustments or replacements. Payment and/or the commencement of a discount period (if applicable) will not begin until the defects are corrected and the vehicle is re-inspected and accepted.

Completion of inspection or acceptance by the State Inspector shall in no way release the dealer from satisfying the requirements of the contract, specifications, and warranty. Deviations from the specified requirements that are detected by the inspection shall be corrected by the dealer in an expeditious manner at no expense to the owning agency.

Inspection by local agencies will be at the dealer's place of business or as otherwise agreed to by the dealer and local purchasing agency.

The following documents shall be delivered to the receiving agency with the vehicle:

- Completed and signed pre-delivery service checklist, including the order number and Vehicle Identification Number (VIN)
- "Line Set Tickets" or "Window Sticker" showing all options installed
- One (1) copy of the vehicle warranty
- · One (1) Owner's Manual
- Speed Calibration documentation for each vehicle

#### 23. CONTRACT ADMINISTRATION

Both the State and the contractor have assigned contract administrators as the single points of contact for problem resolution and related contract issues.

Administrator Information	DGS/PD (State CA)	Elk Grove Auto Group 1-18-23-14A	Folsom Lake Ford 1-18-23-14B
Contact Name:	Rudolph Jimenez	Dwane Galatti	Dan Raimondi or Mark Paoli
Telephone:	(916) 375-4540	(916) 429-4702	(916) 353-2000 Ext. 376 or (916) 353-2000 Ext. 307
Facsimile:	(916) 375-4613	(530) 884-4141	(916) 353-2078
Email:	Rudolph.Jimenez@dgs.ca.gov	dwanefleet@hotmail.com	danr@folsomlakeford.com markp@folsomlakeford.com
Address:	DGS/Procurement Division 707 Third Street, 2 <sup>nd</sup> Floor West Sacramento, CA 95605	Elk Grove Auto Group 8575 Laguna Grove Drive Elk Grove, CA 95757	Folsom Lake Ford 12755 Folsom Blvd Folsom, Ca 95630

#### 24. INVOICING

User Instructions

Ordering agencies may require separate invoicing, as specified by each ordering organization. Invoices will contain the following information:

- Contractor's name, address and telephone number
- Leveraged Procurement Number (Contract Number)
- Agency Order Number (Purchase Order Number)
- Item and commodity code number

#### Contract User Instructions

- Quantity purchased
- Contract price and extension
- State sales and/or use tax
- · Prompt payment discounts/cash discounts, if applicable
- · Totals for each order

#### 25. PAYMENT

#### A. Terms

Payment terms for this contract are net forty-five (45) days. Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty- five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

#### B. CAL-Card Use

Use of the CAL-Card for payment of invoices is not allowed under this statewide contract.

#### C. State Financial Marketplace

The State reserves the right to select the form of payment for all procurements, be it either an outright purchase with payment rendered directly by the State, or a financing/lease-purchase or operating lease via the State Financial Marketplace (GS \$Mart and/or Lease \$Mart). If payment is via the financial marketplace, the Supplier will invoice the State and the State will approve the invoice and the selected Lender/Lessor for all product listed on the State's procurement document will pay the supplier on behalf of the State.

#### D. Payee Data Record

Each State accounting office must have a copy of the Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed. State departments should contact the contractor for copies of the Payee Data Record.

#### 26. CALIFORNIA SELLER'S PERMIT

The California seller permit number for the contractor is listed below. State departments can verify that permits are currently valid at the following website: <a href="www.boe.ca.gov">www.boe.ca.gov</a>. State departments must adhere to the file documentation required identified in the State Contracting Manual Volume 2 and Volume 3, as applicable.

Contractor Name	Seller Permit #	Contractor Name	Seller Permit #
Elk Grove Auto Group	100-197237	Folsom Lake Ford	026-797640

#### 27. WARRANTY

The manufacturer's regular new vehicle warranty shall apply to all vehicles procured against the resulting contract.

The warranty shall be factory authorized and shall cover not less than 3 years/36,000-mile bumper to bumper, no charge parts and labor. All emission-related components shall be warranted in compliance with the California Air Recourses Board (CARB) and Federal requirements. Bids offering independent insurance or a statement indicating self-insurance will be deemed non-responsive and will be rejected.

#### Contract User Instructions

This warranty shall be honored by all franchised dealers of the vehicle within the State of California. The State's established preventative maintenance procedures and practices shall be acceptable to the manufacturer/dealers in lieu of the manufacturer's prescribed procedures, which may form a part of the warranty. All warranty certificates and/or cards shall be supplied with each vehicle delivered.

If an additional extended warranty is purchased, a warranty certificate, warranty card, or a statement indicating the extended warranty has been recorded with the manufacturer shall be furnished with each vehicle delivered.

Normal wear items such as tires, belts, hoses, headlamps, light bulbs, brake linings, brake discs/drums, etc. are excluded from warranty coverage. All other items not subject to normal wear or gross operator neglect and abuse, such as window, seat or wiper motors, chassis electrical switches (door, trunk lid), paint, hinges, locks, etc., shall be covered.

The State reserves the right to use re-refined lubrication oils, where available, in lieu of the virgin equivalent oils. The re-refined oils used by the State will meet all API and SAE standards and specifications as set forth by the vehicle manufacturer. The use of said oils shall in no way void or degrade the original manufacturer's minimum 3-year/36,000- mile warranty.

The State reserves the right to use recycled content antifreeze/coolant, where available, in lieu of virgin equivalent antifreeze/coolant, in servicing its vehicles. The recycled antifreeze/coolant used by the State will meet all ASTM standards and specifications as set forth by the vehicle manufacturer. The use of said recycled antifreeze/coolant shall in no way void or degrade the original manufacturer's minimum 3-year/ 36,000-mile warranty.

"Manufacturer's Warranty Policy and Procedures Manual" shall be made available upon customer request. The solicitation shall also require each awarded dealer to designate by name, a responsible contact and alternate assigned for the duration of the contract, who will resolve State warranty-related claims on a priority basis.

**Note:** Vehicles not placed in service immediately upon receipt shall be warranted from the date the unit is placed in service. The receiving agency shall notify the dealer in writing of the actual "in-service" date.

#### 28. RECYCLED CONTENT

There is no recycled content associated with this contract.

#### 29. SMALL BUSINESS/DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION

There is no small business (SB) or disabled veteran business enterprise (DVBE) participation for this contract.

#### 30. BIDDER DECLARATION/COMMERCIALLY USEFUL FUNCTION (CUF)

The DGS/PD, as the awarding department, has assessed the prime Contractor and subcontractor certifications and CUF during the solicitation evaluation process. Consequently, when executing purchase documents pursuant to this contract, it is not necessary for State departments operating under statewide contract purchasing authority to request the completion of a Bidder Declaration document or perform additional CUF analysis. The department should make a notation of this within their procurement file.

#### 31. ATTACHMENTS

Attachment 1 - Pricing Worksheets for Group 1 - Enforcement Sedan & Group 2 - Enforcement Utility

Attachment 2a - Specification 2310-4264-Sedan, dated 4/12/2018

Attachment 2b - Specification 2310-4444-Utiltiy, dated 4/12/2018



#### Motorola High Tiered Public Safety Radios for First Responders

#### Limited Distribution

Motorola Solutions controls who and how their Public Safety radios can be sold. They do this to limit the access of these radios getting in the hands of people who don't have an authorized need. These radios are capable of many advanced features including digital encryption and are mostly used by Police, Fire, Military and other Government Law Enforcement Agencies.

These high Tiered P25 Handheid and Vehicle Radios are the APX Series and the former XTS and XTL Series. The only way to purchase these radios is Directly from Motorola and/or your Motorola assigned Motorola Manufacture's Representative (MR). Day Wireless Systems is the Motorola assigned MR for the City of National City. This means your MR is representing Motorola and quoting you directly as Motorola using their Discounted Pricing Contracts. All Purchase Orders are to be made out to Motorola Solutions, Inc. You are not purchasing anything from Day Wireless Systems (who is also a Motorola Dealer, Reseller and Service Center).

Motorola Two-Way Radio Dealers & Resellers mostly sell lower tiered commercial, professional and business radios to vertical markets such as education, manufacturing, hospitality, etc... The High Tiered Public Safety radios like the APX6000 are not available for Dealers to purchases and Resell. These APX radios are not listed in their Dealer Price Book from Motorola. If a Motorola Radio Dealer & Reseller wanted to sell an APX Public Safety Radio they would have to submit an Above Price Book (APB) Request to Motorola. The Dealer has to list who the end user of the radio is. Motorola will deny this APB request for any Public Safety Account (City or Agency) that already has an assigned MR and Motorola Direct Sales Rep managing that account. For Example any Motorola Radio Dealer who requested to get APB pricing to buy and sell an APX radio to the City of National City would be denied. You are not able to get 3 quotes for these High Tiered Above Price Book Radios.

Above Price Book pricing for a Radio dealer is always 20% off List Price from Motorola. So their cost to buy the APX radio from Motorola is 20% off list price. The Motorola Direct/MiR RCS Contract Price to the City of National City is discounted form 28% to 33% off List Price. Even if Motorola did approve an APB request for a Dealer, they would not be able to compete with the RCS Contract price.

This Controlled Distribution provides the customer with the best pricing and aligns them with a MR that can be their trusted advisor to help them budget and make the best decisions for the long term.

Andy Grimm

Motorola Manufacturer's Representative – Public Safety Markets



## COUNTY OF SAN DIEGO – DEPARTMENT OF PURCHASING AND CONTRACTING CONTRACT NO. 559743 AMENDMENT NO. 48

To Meteroia Solutions, Inc. Pursuant to the contract changes clause, you are directed to make the changes described herein to the Contract or do the following described work not included in the previous agreed on Statement of Work.

Title of Contract, Project, or Program: Regional Communications system (RCS) Motorcia Services and Equipment

Effective Date: Date Signed by the County of San Diego Department of Purchasing and Contracting

Description of Contract Change(s) and/or Work To Be Done:

- 1. Modify Section 3, Term of Agreement and Completion of Work. The contract expiration date is change to December 31, 2020.
- 2. Modify Section 6, Notices as follows:

County:

COUNTY OF SAN DIEGO

Suc Willy, Manager

Sheriff's Wireless Services Division 5595 Overland Avenue, Suite 101

Sun Diego, CA 92123 (858) 695 3953

susan willy@sdsheriff.org

Motoroia:

MOTOROLA SOLUTIONS, INC.

Ken Nordholm, Senior Account Manager

10680 Treena Street, Suite 200

San Diego, CA 92131

(858) 488 4440

ken.nordholm@motorolasolutions.com

Due to administrative controls, change the contract number from 550743 to 552544.

All other Terms and Conditions remain in effect.

IN WITNESS WHEREOF, County and Contractor have executed this Amendment effective as of the date first set forth above.

We, the undersigned Contractor, have given careful consideration to the change proposed and hereby agree, if this proposed change is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work specified herein.

Revised contract time for completion is December 31, 2020 .

By: Travis Boattcher, M83SF, Vice President

Date: 41/17/2015

APPROVED:

CONTRACTING

Βv:

JOHN M. PELLECITINO, Director Department of Purchasing and Contracting

THIS AMENDMENT IS NOT VALID UNLESS SIGNED BY

tes Division.

THE DEPARTMENT OF PURCHASING AND

Department Review and Recommended Approval:

Susan M. Willy, Manger Wireless Ser-

Duty 11/19/15

MARK W. ANTHONY approach mile

06/08/2015 v3

CONTRACT # 550743 AMENDMENT #48

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# COUNTY OF SAN DIEGO – DEPARTMENT OF PURCHASING AND CONTRACTING CONTRACT NO. 548289 UNILATERAL AMENDMENT NO. 47

To Motorola Solutions, Inc.: Pursuant to the contract changes clause, you are directed to make the changes described herein to the Contract or do the following described work not included in the previous agreed on Statement of Work.

Title of Contract, Project, or Program: Regional Communications System (RCS) Motorola Services and Equipment Effective Date: Date signed by County of San Diego, Department of Purchasing and Contracting

Description of Contract Change(s) and/or Work To Be Done:

1. Due to administrative internal controls, change the contract number from 548289 to 550743.

All other Terms and Conditions remain in effect.

IN WITNESS WHEREOF, the County has executed this Amendment effective as of the date first set forth above.

APPROVED

JOHN M. PELLEGRINO, Director Department of Purchasing and Contracting

Date: 3/16/15

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CONTRACT NO. 548289 AMENDMENT NO. 47

Rev. 11/4/2013 v3

# COUNTY OF SAN DIEGO – DEPARTMENT OF PURCHASING AND CONTRACTING CONTRACT NO. 544679 UNILATERAL AMENDMENT NO. 46

To: Motoroia Solutions, Inc. Fursuant to the contract changes clause, you are directed to make the changes described herein to the Contract or do the following described work not included in the previous agreed on Statement of Work.

Title of Contract, Project, or Program:	Regional Communications System (RCS) Motorola Services and Equipment	Effective Date: May 01, 2014
Description of Contract Change(s) a	nd/or Work To Be Done:	ener, efter meller unfleren filmer de kompt feliklet helle til till film film till till till till till till ti
1. Due to administrative internal control	s, change the contract number from 544679 to 548	<b>1289.</b>
All other Terms and Conditions rem	ain in effect,	
APPROVED:	nas executed this Amendment effective as of the di	ate first set forth above.
By: Department of Purchasing and C		
Date: 4/24/14		

# COUNTY OF SAN DIEGO – DEPARTMENT OF PURCHASING AND CONTRACTING CONTRACT NO. 541947 UNILATERAL AMENDMENT NO. 43

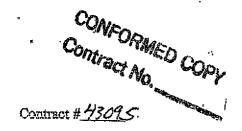
To: Motorola Solutions, Inc. Pursuant to the contract changes clause, you are directed to make the changes described herein to the Contract or do the following described work not included in the previous agreed on Statement of Work.

Title of Contract, Project, or Program: Regional Communications System (RCS) Motorola Service Effective Date: May 02, 2013  Description of Contract Change(s) and/or Work To Be Done:	s and Equipment
Due to administrative internal controls, change the contract number from 541947 to 544679.	-
All other Terms and Conditions remain in effect.	entered and the second and the secon
APPROVED:  APPROVED:  JOHN M. PELLEGRINO, Director Department of Pyrchasing and Contracting  Date:  Date:	above.

# COUNTY OF SAN DIEGO – DEPARTMENT OF PURCHASING AND CONTRACTING CONTRACT NO. 43095 UNILATERAL AMENDMENT NO. 36

To Motorola, Inc.: Pursuant to the contract changes clause, you are directed to make the changes described herein to the Contract or do the following described work not included in the previous agreed on Statement of Work.

Description of Contract Change(s) and/or Work To Be	Dane:
1. Due to new fiscal year and contractor name change to Mo	otorola Solutions, Inc., change the contract number from 43095 to 541947.
•	•
	Þ
All other Terms and Conditions remain in effect.	
IN WITNESS WHEREOF, the County has executed this An	nendment effective as of the date first set forth above.
IN WITNESS WHEREOF, the County has executed this An	mendment effective as of the date first set forth above.
IN WITNESS WHEREOF, the County has executed this An APPROVED:	nendment effective as of the date first set forth above.
APPROVED:	nendment effective as of the date first set forth above.
APPROVED: By: Bruce's Petrue	nendment effective as of the date first set forth above.
'AFPROVED:	nendment effective as of the date first set forth above.



# AGREEMENT WITH A COMMUNICATIONS MANUFACTURING FIRM TO PROVIDE A REGIONAL COMMUNICATIONS SYSTEM

THIS AGREEMENT made and entered into this day of December, 1995 by and between the County of San Diego, a political subdivision of the State of California, hereinafter called "COUNTY," and Motorola, Inc. (MOTOROLA) located at 9980 Carroll Canyon Road, San Diego, CA 92131.

#### WITNESSETH:

WHEREAS, the COUNTY, by action of Board of Supervisors Item 9 on December 13, 1994 authorized the Director of Purchasing and Contracting, pursuant to Article XXIII, Section 93.1a of the Administrative Code, to award a contract to provide a Regional Communications System (RCS) and by Item 2 on March 7, 1995 authorized the RCS Board of Directors, on behalf of the COUNTY, to review and approve said contract.

WHEREAS, the COUNTY desires such services to be provided in accordance with MOTOROLA's proposal dated SEPTEMBER 11, 1995 and as amended by MOTOROLA's letter dated December 29, 1995.

WHEREAS MOTOROLA agrees to provide its scrvices and equipment subject to the following additional conditions, and shall be considered the prime contractor for the provision of services required by the COUNTY, and

WHEREAS, MOTOROLA is specially trained and possess certain skills, experience, education and competency to perform special services;

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### SECTION I. DUTY OF MOTOROLA

- A. MOTOROLA shall designate a representative who will be in charge of this Project.
- B. MOTOROLA shall designate a representative, if other than the representative designated in "A" above, who may sign in the name of MOTOROLA, on letters, papers, and other documents relating to professional services to be performed hereunder.
- C. The designation(s) required by "A" and "B" above shall be sent to Contracting Officer's Technical Representative, (COTR) Mr. Jon Fullinwider, Director, Department of Information Services or his designee.
- D. MOTOROLA shall, in a good workmanlike and professional manner and at their own cost and expense, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all test, testing and analysis, calculations, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by the COUNTY, necessary or proper to perform and complete the work and provide the services required of MOTOROLA by this Agreement.
- E. MOTOROLA shall function as a prime contractor for performance of the services described in Volume II - Statement of Work.

### SECTION 2. WORK TO BE PERFORMED BY MOTOROLA

MOTOROLA shall furnish, install, test and cut over a state-of-the-art 800 MHz public safety trunked radio communications system as described by the functional specifications set forth in MOTOROLA's proposal, including all required support equipment—such as consoles as identified and described in this Agreement and MOTOROLA's proposal. The system shall also include delivery of portable and mobile radios as listed in this Agreement. The COUNTY has the option to review and modify user equipment quantities and models up to 90 days prior to actual or scheduled delivery whichever is later. All equipment provided hereunder shall be new.

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MOTOROLA agrees to do and perform the work described in MOTOROLA's proposal dated September 11, 1995 as amended by MOTOROLA's letter dated December 22, 1995. The specific tasks to be performed by MOTOROLA are listed in Volume II - Statement of Work and Specific Equipment Lists are described in Volume III which volumes are attached hereto and made a part hereof.

### SECTION 3. TERM OF AGREEMENT AND COMPLETION OF WORK

All equipment to be delivered and services required by this Agreement shall be satisfactorily completed in accordance with the schedules set forth in Exhibit B. This Agreement shall be in effect until 31 December 2010, and may thereafter be renewed upon written agreement of COUNTY and MOTOROLA.

### SECTION 4. WORK TO BE DONE BY COUNTY

The COUNTY shall provide such information as required by the Statement of Work and as are reasonably necessary for MOTOROLA to perform its services.

- 4.1 The COTR or a designated representative, shall represent the COUNTY in all matters pertaining to the services rendered under this Agreement. The COTR will appoint a Project Manager to represent the COTR in the day-to-day operations and development of the Project.
- 4.2 The COUNTY shall select and acquire sites and provide adequate access to the site to allow delivery and installation of all required improvements.
- 4.3 Notwithstanding anything to the contrary in this Agreement, the COUNTY shall only furnish information or services described in this Agreement to the extent that any such information or service is reasonably required for MOTOROLA to perform its obligations under this Agreement and is requested by MOTOROLA in writing.

- 4.4 The COUNTY will supply drawings and specifications of any existing facilities including plans, elevations, sections, details and existing utilities, to the extent that such information is reasonably available.
- 4.5 The COUNTY shall participate in all subsystem acceptance tests and shall accept the subsystems in accordance with their respective Acceptance Test Procedures which are incorporated herein. Upon acceptance of all subsystems, the RCS shall be deemed to be finally accepted.
- 4.6 The COUNTY shall acquire all permits and licenses necessary for the construction and operation of the sites.

#### SECTION 5. PAYMENT

The COUNTY shall pay MOTOROLA, as full compensation for its services on this Project, a total amount of \$ 39,672,111.92. This amount is payment for all items as set forth in the Statement of Work and as further described in Exhibit B "Milestone Payment Schedule & Terms." The above amount excludes the items listed in Line Item 3 as options. Payment for each milestone shall be made in accordance with Exhibit B. MOTOROLA shall invoice for tasks assigned subsequent to the date of this Agreement either upon milestone completion or on the following basis:

- Monthly percentage complete invoices by task, including a listing of tasks
  performed and associated costs, to include all subcontract costs and other direct
  costs.
- A copy of the monthly report required in Section 3 of this Agreement shall be attached to each monthly invoice, detailing tasks performed and percentage completion of each task.
- The COUNTY is precluded from making payments prior to receipt of services (advance payments). The COUNTY will accept invoices for progress payments and if approved, will reimburse MOTOROLA up to 90% of the value of goods/services

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received. Invoice to be submitted as follows:

 Original invoices will be submitted monthly, or at the completion of each phase or task, or at contract completion to:

# COUNTY AUDITOR AND CONTROLLER, ROOM 306 1600 PACIFIC HIGHWAY. SAN DIEGO, CA 92101

- b. A copy of the invoice shall be submitted to the COTR. The invoice must specify items and deliverables for all items described in the "Statement of Work."
- c. Payment shall be Net 30 Days from receipt and approval of invoice unless otherwise stated. Discounts will be calculated from receipt of merchandise or invoice, whichever is later.
- The balance due for each task may be released upon the completion of that task.
   The final invoice will be submitted by MOTOROLA upon completion of each task.

Included in the price set forth above, the COUNTY and MOTOROLA have agreed that the COUNTY will have the ability to issue Task Orders (Item 2 below) requiring additional work within the scope of the contract services or exercising options as set forth below. Task Orders, up to a value of \$4,500,000 (total) may be issued by the COTR. Each Task Order shall:

- I. Be sequentially numbered for identification purposes.
- 2. Contain a description of the work to be performed.
- 3. Establish a price and a payment schedule for the tasks which are to be accomplished.
- Establish a schedule for completion of the task.
- 5. Shall be signed by both MOTOROLA and COTR as well as the Contracting Officer to indicate acceptance.

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<u>Item1</u>: Provision of Regional Communications Systems and Associated Services: \$39,672,111.92.

Item2: Task orders (To be written subsequent to contract): \$4,500,000.

Item3: As a part of this Agreement, COUNTY and MOTOROLA agree to the following optional pricing arrangements.

- 1. Additional equipment for the backbone, including RNG, RNC, etc. may be added to the deliverable items. Such equipment shall be ordered by the COUNTY through the TASK ORDER provision (line item 2) at the prices set forth in the Master Equipment List (Volume III), provided that the option to purchase at the stated prices must be exercised no later than final system acceptance.
- 2. COUNTY may, through the TASK ORDER provision cited in line item 2, purchase Mobile Data equipment, additional portable equipment, spare parts and such other items as are listed in Volume III of this Agreement.

#### SECTION 6. NOTICES

Any notice or notices required or permitted to be given pursuant to this Agreement may be delivered to the following addresses:

COUNTY:

COUNTY OF SAN DIEGO

ATTENTION:

Mr. Jon Fullinwider

Department of Information Services

1600 Pacific Highway

San Diego, California 92101

MOTOROLA:

MOTOROLA, Inc.

ATTENTION:

Mr. C. Jackson, Vice President, System Integration

Land Mobile Products Sector

9980 Carroll Canyon Rd.

San Diego, CA 92131-1186

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203 204 All notices required under this Agreement shall be in writing and shall be delivered either by (I) personal delivery, (ii) expedited messenger service or (iii) postage prepaid, return receipt requested certified mail, addressed to the party set forth above. A notice will not be effective until the addressec receives it, or on the date that it is recorded as being refused for receipt by the intended recipient. Either party may change the individual and/or the address for purposes of this Section by written instructions to the other party of such change.

### SECTION 7. OTHER APPLICABLE AGREEMENTS/ORDER OF PRECEDENCE

The following documents shall constitute the Agreement between MOTOROLA and the COUNTY, all identified documents are hereby incorporated by reference and made a part hereof as if fully set forth herein.

- 1. This Agreement and all duly executed amendments to this Agreement, with the latest amendment taking precedence over earlier amendments.
- General Terms and Conditions
- 3. Special Terms and Conditions
- 4. The Exhibits and all duly executed amendments to said Exhibits
- 5. MOTOROLA's proposal, dated September 11, 1995 and as amended by MOTOROLA's letter dated December 29, 1995.

In the event of any inconsistency or conflict between portions of this Agreement or the referenced documents; precedence shall be given in the following order:

- 1. The Agreement and all duly executed amendments to this Agreement, with the latest amendment taking precedence over earlier amendments.
- 2. General Terms and Conditions
- 3. Special Terms and Conditions
- 4. The Exhibits and all duly executed amendments to said Exhibits
- 5. MOTOROLA's proposal, dated September 11, 1995 and as amended by MOTOROLA's letter dated December 29, 1995.

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#### SECTION 8. REPORTS

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225 226 227 MOTOROLA shall provide monthly reports to the COTR. These reports shall include, as a minimum:

- A summary of tasks performed during the reporting period, including tasks initiated, tasks completed and percentage of completion of tasks currently in progress.
- 2. Estimates of work to be undertaken in the next reporting period.
- 3. Problems that have arisen during the reporting period and proposed solutions.
- Any action(s) required by the COUNTY to resolve problems
- Items requiring completion by COUNTY during next period to avoid impact on costs, schedule or performance.
- Summary of Financial Reports, as provided for in Special Terms & Conditions
   Paragraph entitled "Project/Contract Financial Reporting"

#### SECTION 9. ENTIRE AGREEMENT

This Agreement (including the agreements and documents incorporated by reference in Section 7) constitutes the entire Agreement, understanding and representation expressed or implied between MOTOROLA and the COUNTY with respect to the equipment and services to be provided under this Agreement and supersedes all other additional communications, both written and oral.

All parties by their authorized signatures, acknowledge that they have read, understood and agree to all the Terms & Conditions of this Agreement.

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22: 23:	SIGNATURE PAGE			
231	CONTRACT # 4/3095			
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233	COUNTY OF SAN DIEGO	MOTOROLA, INC.		
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237	WEAVER C. SIMONSEN			
238	Contracts Division Manager William L. Napier, Director	Name: Stephen E. Shanck		
239	Purchasing and Contracting	Title: Vice President		
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#### GENERAL TERMS & CONDITIONS OF AGREEMENT

#### 1. DEFINITIONS

 "COUNTY" shall mean the County of San Diego, California.

"MOTOROLA" shall mean MOTOROLA, Inc. whose proposal has been accepted by the COUNTY and who has entered into this agreement with the COUNTY to provide the equipment and services described herein.

#### 2. AFFIRMATIVE ACTION

MOTOROLA shall comply with the Affirmative Action Program for Vendors as set forth in Article IIIk (commencing at Section 84) of the San Diego County Administrative code, which program is incorporated herein by reference. A copy of this Affirmative Action Program will be furnished upon request by the County of San Diego Contract Compliance Office, 1600 Pacific Highway, Room 208, San Diego, CA 92101.

The County of San Diego, as a matter of policy, encourages the participation of small, minority, and women owned businesses.

#### 3. ASSIGNMENT OF RIGHTS, TITLE AND INTEREST

MOTOROLA agrees that it will assign to the purchasing body (COUNTY) all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 1 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by MOTOROLA for sale to the COUNTY pursuant to the contract. Such assignment shall be made and become effective at the time the COUNTY tenders final payment to MOTOROLA.

#### 4. CAL OSHA

As applicable, all items furnished under this Agreement shall meet or exceed the standards established by the California Occupational Safety and Health Act of 1973 and current amendments thereto, provided the end use of the item is for the purpose for which the item is intended.

#### 5. DELIVERY

All delivery shall be FOB at the County, unless staging or other pre-installation is mutually agreed upon. Time is of the essence. The acceptance by the COUNTY of late performance with

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 or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by the MOTOROLA.

#### 6. REVIEW/APPROVAL/INSPECTION

All items and deliverables are subject to final inspection, review/approval and acceptance by the COUNTY at the COUNTY's offices. Such final inspection, review/approval and acceptance or rejection shall be made within 15 days after delivery or as otherwise mutually agreed upon.

#### 7. TERMINATION FOR DEFAULT

The COUNTY may, by written notice of default to MOTOROLA terminate any of this Agreement in whole or in part should MOTOROLA fail to make satisfactory progress, fail to deliver in conformance to specifications and the requirements set forth therein. COUNTY shall give MOTOROLA written notice of such default ("Cure Notice") and MOTOROLA shall have ten (10) working days to provide a plan of action to cure said default. In the event that either a) the plan is deemed unacceptable by the COUNTY or b) MOTOROLA fails to cure such default, then the contract shall be terminated for default. In the event of such termination, the COUNTY reserves the right to purchase or obtain the supplies or services elsewhere, and MOTOROLA shall be liable for the difference between the prices set forth in the terminated order and the actual cost thereof to the COUNTY. The prevailing market price shall be considered the fair repurchase price. COUNTY agrees that in the event of a partial or complete termination hereunder, the replacement System shall not have a capability exceeding that specified in the Agreement and that said replacement shall be of like kind and quality to accomplish the intended purpose of the agreement.

- 7.1 If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that MOTOROLA was not in default under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause herein.
- 7.2 The rights and remedies of the COUNTY provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.

## 8. TERMINATION FOR CONVENIENCE

The COUNTY may, by written notice stating the extent and effective date, terminate this Agreement for convenience in whole or in part, at any time. The COUNTY shall pay MOTOROLA as full compensation for performance until such termination:

8.1 The unit or pro rata price for the delivered and accepted portion.

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- 8.2. A reasonable amount, as costs of termination, not otherwise recoverable from other sources by MOTOROLA as approved by the COUNTY, with respect to the undelivered or unaccepted portion of this Agreement, provided compensation hereunder shall in no event exceed the total price.
- 8.3 In no event shall the COUNTY be liable for any loss of profits on this Agreement or portion thereof so terminated.
- 8.4 The rights and remedies of the COUNTY provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.

#### 9. TITLE

Title to the material and supplies purchased shall pass directly from MOTOROLA to the COUNTY upon delivery, subject to the right of COUNTY to reject upon inspection.

MOTOROLA shall retain risk of loss for all equipment until acceptance at the COUNTY's designated facility or site; title for all equipment delivered hereunder shall pass to the County at the point and time of receipt as evidenced by a receiving document signed by the COTR or an authorized designee. The above notwithstanding, title to software included in the equipment shall not pass to the COUNTY at any time. Software is the subject of a separate provision of this Agreement and is subject to the license agreement set forth herein.

## 10. VARIATIONS IN SPECIFICATIONS

The COUNTY reserves the right to waive a variation in specification if, in the opinion of the COUNTY, such variation does not materially change the item or its performance within parameters acceptable to the COUNTY.

# 11. HAZARDOUS SUBSTANCES

- Director's list as hazardous; MOTOROLA shall forward a material safety data sheet (MSDA) (OSHA Form 20), referencing the purchase order number, to San Diego County, Department of Health Services, Attn. Chief, Occupational & Radiological Health, PO Box 85261, San Diego, CA 92138-5261. All shipments are to have proper labeling requirements.
- 11.2 IN ACCORDANCE WITH COUNTY BOARD OF SUPERVISORS POLICY B-64, MOTOROLA SHALL NOT PROVIDE OR DELIVER ANY PRODUCTS MANUFACTURED USING FULLY HALOGENATED CHLOROFLUOROCARBONS (CFC), UNLESS SPECIFICALLY AUTHORIZED BY THE COUNTY DIRECTOR, PURCHASING AND CONTRACTING.

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#### 12. PROHIBITED CONTRACTS

Section 67 of the San Diego County Administrative Code provides that the COUNTY shall not contract with, and shall reject any bid or proposal submitted by the person or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

- 12.1 Persons employed by the COUNTY or of public agencies for which the Board of Supervisors is the governing body;
- 12.2 Profit-making firms or businesses in which employees described in sub-section (a) of code serve as officers, principals, partners, or major shareholders;
- 12.3 Persons who, within the immediately preceding twelve (12) months came within the provisions of the above sub-section and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; and
- 12.4 Profit-making firms or businesses in which the former employees described in sub-section 12.3 above serve as officers, principals, partners, or major shareholders.

With the affixing of a signature to this Contract, MOTOROLA certifies that the above provisions of the Code have been complied with, and that any exception will cause any ensuing contract to be invalid.

#### 13. PUBLIC AGENCY

It is intended that any other public agency (i.e., city, district, public authority, public agency, municipality and other political sub-division or public corporation of California) located in San Diego and Imperial Counties shall have the option to participate in any award made as a result of this solicitation at the same prices and FOB destination, Terms & Conditions. The County shall incur no financial responsibility in connection with purchase orders issued by another public agency. The public agency shall accept sole responsibility for placing order or payments to MOTOROLA. State whether said option is granted.

YES [X] NO[]

## 14. AVAILABILITY OF FUNDING

This contract is project funded. Fiscal funds are not included in this Agreement

The COUNTY's obligation for payment of any contract beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability

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on the part of the COUNTY shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.

# FLAMMABILITY & TOXICITY

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Materials furnished under this Agreement must meet or exceed minimum California State Fire Marshal's standard for flammability and toxicity for institutional fabrics. MOTOROLA shall provide evidence of California Marshal's test results and approval number.

# 16. CONTRACT ADMINISTRATION

The Director of Furchasing and Contracting is the designated Contracting Officer and is the only COUNTY official authorized to make any changes to this agreement.

The COUNTY has designated the following individual as the Contracting Officer's Technical Representative (COTR):

Department Information Services-Mr. Jon Fullinwider or his designce.

The COTR will chair MOTOROLA progress meetings and will coordinate the COUNTY's contract administrative functions. The COTR is designated to receive and approve MOTOROLA invoices for payment, audit and inspect records, inspect MOTOROLA's services, and provide other technical guidance as required. The COTR is not authorized to change any Terms & Conditions of the Contract. Changes to the scope of work will be made only by the Board of Supervisors and/or the Contracting Officer issuing a properly executed Change Order modification.

# 17. CONTRACT PROGRESS MEETINGS (with amplification in Section 8. Reports of the Agreement)

The COTR and other County Personnel, as appropriate, will meet pariodically with MOTOROLA to review the contract performance. At these meetings the COTR will apprise MOTOROLA of how the COUNTY views MOTOROLA's performance and MOTOROLA will apprise the COUNTY of problems, if any, being experienced. MOTOROLA will also notify the Contracting Officer (in writing) of any work being performed, if any, that MOTOROLA considers to be over and above the requirements of the contract. Appropriate action shall be taken to resolve outstanding issues.

A summary of these meetings which shall include, but not be limited to, key issues, action items, items agreed to and problems requiring resolution will be reduced to writing by MOTOROLA and signed by the COTR and MOTOROLA. Should the COUNTY not concur with meeting summary, the COUNTY will set out in writing any areas of disagreement. Appropriate action will be taken to resolve any areas of disagreement.

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## 18. INSPECTION OF SERVICE

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MOTOROLA's services shall be performed with a high degree of care and diligence, and where required, in accordance with the highest standards exercised by engineers performing similar services in the San Diego, California area, and as expeditiously as is consistent with such standards of skill and care and the orderly progress of the Work.

- 18.1 All performance (which includes services, materials, supplies and equipment furnished or utilized in the performance of this contract, and workmanship in the performance of service) shall be subject to inspection and test by the COUNTY during the term of the Agreement. MOTOROLA shall provide adequate cooperation to any inspector assigned by the COUNTY to permit the inspector to determine MOTOROLA's conformity with these specifications and the adequacy of the services being contractually provided. All inspection by the COUNTY shall be made in such a manner as not to unduly interfere with MOTOROLA's performance.
- 18.2 If any services performed hereunder are not in conformity with the specifications and requirements of this contract, the COUNTY shall have the right to require MOTOROLA to perform the services in conformity with said specifications and requirements at no increase in total contract amount. When the services to be performed are of such nature that the difference cannot be corrected, the COUNTY shall have the right to (1) require MOTOROLA immediately to take all necessary steps to ensure future performance of the services in conformity with requirements of the contact, and (2) reduce the contract price to reflect the reduced value of the services performed. In the event MOTOROLA fails to perform the services promptly or to take necessary steps to ensure future performance of the service in conformity with the specifications and requirements of this contract, the COUNTY shall have the right to terminate this contract for default as provided in the Termination for Default clause herein.

#### 19. CHANGES

The Contracting Officer may at any time, by written order, make changes within the general scope of this contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price of delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by MOTOROLA for adjustment under this clause must be asserted within 30 days from the date of receipt by MOTOROLA of the notifications of change; provided however, that the Contracting Officer, if Contracting Officer decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or

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 excess as a result of a change is included in MOTOROLA's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. When the estimated cost of the change is less than \$25,000, nothing in this clause shall excuse MOTOROLA from proceeding with the contract as changed. In the event that the estimated cost of the change order exceeds \$25,000, Motorola shall not be required to proceed with the change until the change order has been signed by both parties to the Agreement.

#### 20. <u>INDEPENDENT CONTRACTOR</u>

MOTOROLA is, for all purposes arising out of this contract, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that MOTOROLA shall in no event, as a result of this contract, be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits.

#### 21. ASSIGNABILITY

MOTOROLA shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the COUNTY thereto; provided however, that claims for money due or to become due to MOTOROLA from the COUNTY under this contract may be assigned without such approval. Notice of any such assignment or transfer shall be furnished promptly to the COUNTY.

### 22. SUBCONTRACT FOR WORK OR SERVICES

No contract shall be made by MOTOROLA with any party for furnishing any of the work or services herein contained without the prior written approval of the COTR excepting those suppliers/subcontractors identified in MOTOROLA's proposal; but this provision shall not require the approval of contracts of employment between MOTOROLA and personnel assigned for services thereunder, or for parties named in proposal and agreed to any resulting contract.

MOTOROLA is further reminded that it is the COUNTY's policy to encourage the participation of minority business enterprises. This includes: ensuring that, if available, minority firms are solicited, where feasible dividing the requirement into smaller units for the purpose of greater minority participation, and establishing delivery and payment schedules which will facilitate participation by minority businesses.

#### 23. HOLD HARMLESS

MOTOROLA agrees to fully indemnify, defend and save harmless the COUNTY, its officers and employees against any and all loss, damage, liability, claim, demand, suit of whatsoever nature for damage to property or for personal injury, including death, made by anyone whomsoever, which may arise from operations carried out under this contract to the extent such claims are

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caused by MOTOROLA's sole negligence, or misconduct. MOTOROLA shall not be responsible for and the COUNTY shall defend, indemnify and hold MOTOROLA, its officers and employees harmless from any and all claims of whatsoever kind or nature for the damage to property or for personal injury, including death, made by anyone whomsoever, which may arise from operations carried cut under this contract to the extent such claims are caused by the COUNTY's sole negligence or misconduct. With respect to any and all claims of whatsoever kind or nature for damage to property or for personal injury, including death, made by anyone whomsoever, which may arise from the joint or concurrent negligence of MOTOROLA and COUNTY, each party shall assume responsibility in proportion to the degree of its respective fault. IN NO EVENT SHALL MOTOROLA OR COUNTY BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE.

## 24. INTEREST OF CONTRACTOR

MOTOROLA covenants that it presently has no interest, including but not limited, to other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. MOTOROLA further covenants that in the performance of this contract, no person having any such interest shall be employed or retained by it under this contract.

#### 25. CONDUCT OF CONTRACTOR

- 25.1 MOTOROLA agrees to inform the COUNTY of all MOTOROLA's interests, if any, which are or which MOTOROLA believes to be incompatible with any interests of the COUNTY.
- 25.2 MOTOROLA shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipient in the conduct of their duties, accept any gratuity or special favor from individuals or organizations with whom MOTOROLA is doing business or proposing to do business, in accomplishing the work under the contract.
- 25.3 MOTOROLA shall not use for personal gain or make other improper use of privileged information which is acquired in connection with its employment. In this connection, the term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific development; medical, personnel, or security records of individuals; anticipated materials requirements or pricing actions; and knowledge of selections of MOTOROLA or subcontractor in advance of official announcement.

25.4 MOTOROLA or employees thereof shall not offer gifts, gratuity, favors, entertainment directly or indirectly to COUNTY employees.

#### 26. GOVERNING LAW

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This contract shall be construed and interpreted according to the laws of the State of California.

#### 27. AUDIT AND INSPECTION OF RECORDS

- 27.1 General. The COUNTY shall have the audit and inspection rights described in this section.
- 27.2 Pricing Data. If MOTOROLA submitted pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or Contracting Officer's representatives who are employees of the COUNTY or its agent shall have the right to examine the books, records, documents and other data of MOTOROLA related to the negotiation pricing or performance of such contract, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the pricing data submitted.
- 27.3 Availability. The materials described above shall be made available at the office of MOTOROLA, at all reasonable times, for inspection, audit or reproductions, until the expiration of three years from the date of final payment under this contract, or by (I) and (2) below:
  - 27.3.1 If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three years from the date of any resulting final settlement.
  - 27.3.2 Records which relate to appeals, litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of, or three years after contract completion, whichever is longer.
- 27.4 MOTOROLA shall insert a clause containing all the provisions of this entire clause in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the Contracting Officer under the COUNTY's Prime Contract.

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# 28. PATENT AND COPYRIGHT INFRINGEMENT

MOTOROLA shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which MOTOROLA has knowledge.

## 29. FUNCTIONAL REQUIREMENTS

Unless MOTOROLA expressly states otherwise herein, where functional requirements are expressly stated as part of the requirements of this Agreement, Volume II, Para. 1.0, MOTOROLA, warrants that in its opinion the system is capable of meeting those requirements. In the event of any inconsistency between the functional specifications and the detailed specifications contained in this Agreement, the former will control.

#### 30. INSURANCE

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 Before commencement of the work, MOTOROLA shall submit Certificates of Insurance evidencing that MOTOROLA has obtained for the period of the contract, from generally recognized responsible insurer, insurance in the following forms of coverage and minimum amounts specified:

- 30.1 A policy of Worker's Compensation in statutory amounts.
- 30.2 Commercial General Liability insurance written on an "occurrence" basis and in an amount of not less than \$1,000,000 each occurrence.
- 30.3 Automobile Liability Insurance covering owned, non-owned and hired automobiles in an amount not less than \$1,000,000 combined single limit.
- 30.4 The policies (except for Workers' Compensation) shall name the County of San Diego as additional insured.
- 30.5 Each policy of insurance shall contain the following clause:

"It is agreed that these policies shall not be canceled nor the coverage reduced until thirty. (30) days after the COTR shall have received written notice of such cancellation or reduction. The notice shall be deemed effective the date delivered to said COTR, as evidenced by properly validated return receipt..." Each policy of insurance shall name the County of San Diego as the additional insured party.

30.6 The County of San Diego shall retain the right at any time to review the coverage, form and amount of insurance required herein and may require MOTOROLA to obtain insurance sufficient in coverage, form and amount to provide adequate protection against the kind

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and extent of risk which exist at the time a change in insurance is required. The COUNTY requirement shall be reasonable.

#### 31. LICENSING

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Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of MOTOROLA. MOTOROLA and its subcontractors shall be licensed, if required, in accordance with the laws of this state and any contractor or subcontractor not so licensed is subject to the penalties imposed by such laws.

## 32. PERMITS, NOTICES, FEES AND LAWS

MOTOROLA shall, at MOTOROLA's expense, obtain all necessary business permits and licenses, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to work and to the preservation of the public health and safety.

# 33. AIR, WATER POLLUTION CONTROL, SAFETY AND HEALTH

MOTOROLA shall comply with all air pollution control, water pollution, Safety and Health Ordinances and statutes which apply to the work performed pursuant to this contract, including any requirements specified in state government codes.

# 34. PERSONNEL ASSIGNMENT AND REPLACEMENT

- 34.1 Resumes of key individuals who will be assigned to the project will be furnished. All such personnel will be assigned to the project.
- 34.2 A project manager will be assigned, (if more than one individual is assigned) as the individual responsible for the overall performance of any resulting contract and will be directly responsible for responding to the COTR at all times during the term of this contract.
- 34.3 No replacement of personnel will be allowed without firll resume submittal, justification therefor and approval by the COTR.

# 35. RIGHT TO ACQUIRE EQUIPMENT AND SERVICES

Nothing in this agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment and/or service from other sources, when deemed by the COUNTY to be in its best interest.

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#### 36. SEVERABILITY

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763 i Should any part of this agreement be held to be invalid by a court of competent jurisdiction, the remainder of the agreement shall be considered as the whole agreement and be binding on the contracting parties.

#### 37. FINDINGS CONFIDENTIAL

Any reports, information, data, etc., given to or prepared or assembled by MOTOROLA under this Agreement which the COUNTY requests to be kept as confidential shall not be made available to any individual or organization by MOTOROLA without the prior written approval of the COUNTY.

# 38. PUBLICATION, REPRODUCTION AND USE OF MATERIAL

No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The COUNTY shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. All reports, data and other materials prepared under this Agreement shall be property of the COUNTY upon completion of this Agreement.

# 39. LIMITATION OF FUTURE CONTRACTS

- 39.1 It is agreed by the parties to the contract that MOTOROLA will be restricted in their future contracting with the COUNTY to the manner described below. Except as specifically provided in this clause, MOTOROLA shall be free to compete for business on an equal basis with other companies.
- 39.2 If MOTOROLA under the terms of the contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are to be incorporated into a solicitation, MOTOROLA shall be ineligible to perform the work described within that solicitation as a prime or subcontractor under an ensuing COUNTY contract. It is further agreed, however, that the COUNTY will not, as additional work or by change, unilaterally require MOTOROLA to prepare such specifications or statements of work under this contract.
- 39.3 To the extent that the work under this contract requires access to proprietary, business confidential or financial data of other companies, and as long as such data remains proprietary or confidential, MOTOROLA shall protect such data from unauthorized use and disclosure and agree not to use it to compete with such-companies.

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# 40. DRUG & ALCOHOL FREE WORKPLACE

The County of San Diego, in recognition of individual rights to work in a safe, healthful and productive work place, has adopted a requirement for a drug and alcohol free work place, County of San Diego Drug and Alcohol Use Policy C-25. This policy provides that all COUNTY employed contractors and contractor employees shall assist in meeting this requirement.

- 40.1 As a material condition of this agreement, MOTOROLA agrees that MOTOROLA and MOTOROLA's employees, while performing service on the COUNTY property, or while using COUNTY equipment:
  - 40.1.1 Shall not be in any way impaired because of being under the influence of alcohol or a drug.
  - 40.1.2 Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
  - 40.1.3 Shall not sell, offer, or provide alcohol or a drug to another person.

The above sub-paragraph shall not be applicable to a MOTOROLA employee who, as part of the performance of normal job duties and responsibilities prescribes or administers medically prescribed drugs.

- 40.2 MOTOROLA shall inform all employees that are performing service for the COUNTY on COUNTY property or using COUNTY equipment, of the COUNTY objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the COUNTY.
- 40.3 The County may Terminate for Default or Breach this Agreement and any other Agreement MOTOROLA has with the COUNTY, if MOTOROLA, or MOTOROLA's employees are determined by the Contracting Officer not to be in compliance with the conditions listed herein.

#### 41. SEXUAL HARASSMENT

To implement COUNTY policy to provide a work environment free of sexual harassment, MOTOROLA shall comply with Board Supervisors' Policy C-22, "Sexual Harassment Policy," and with all applicable State and federal laws pertaining to sexual harassment or discrimination.

## SPECIAL TERMS & CONDITIONS OF AGREEMENT

## 1. PERFORMANCE BONDS

MOTOROLA will provide to the COUNTY a Performance Bond in a sum equal to twenty-five (25%) percent and a Payment Bond in a sum equal to ten (10%) percent of the contract with surety satisfactory to the COUNTY, within ten (10) working days after notice is received from the COUNTY that the contract has been awarded. The cost of providing the bond shall be considered as included in the price and no additional compensation will be allowed therefor. If MOTOROLA fails to provide the bonds within the time specified, the COUNTY may, at its option, determine that MOTOROLA is in default and terminate the contract in accordance with the clauses of the contract entitled "Termination for Default" and "Termination for Convenience."

## 2. LIQUIDATED DAMAGES

Time is of the essence in the performance of this Agreement, and it is agreed by MOTOROLA and the COUNTY that if this Agreement is not fully and completely performed within the terms of the Agreement, as described in the Project Implementation Plan, and such failure is due to circumstances which are solely within MOTOROLA's control, and the COUNTY has timely performed its obligations under the Agreement, damage will thereby be sustained by the COUNTY. Since it is and will be impractical and extremely difficult to determine the actual damage which the COUNTY will sustain by reason of such delay, it is therefore agreed that MOTOROLA will pay to the COUNTY liquidated damages as set forth below:

- a) The sum of \$4,000.00 per day for Backbone System Acceptance Test Plan (ATP)
   completion; and \$1,700.00 per day for the completion of the Console ATP for each day in excess of the allotted schedule prescribed in the Project Implementation Plan, up to a maximum amount of \$424,000.00 for the entire RCS project.
- b) MOTOROLA will be given a thirty (30) day grace period from the due date specified in the Project Implementation Plan before liquidated damages will be effective. If MOTOROLA has not completed the applicable milestone within the thirty (30) grace day period, then liquidated damages shall be effective retroactive to the first day following the specified completion date.
- c) Liquidated damages accrued during the performance of the Agreement will be waived by the COUNTY if MOTOROLA meets the scheduled delivery date for RCS System Acceptance.

If this Agreement is not fully and completely performed within the time set forth in the Project Implementation Plan, the COUNTY's Contracting Officer shall have the right to increase the

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time for such performance and to waive the above damages. Nothing in this Section shall be construed as giving MOTOROLA a right to extra time for performance.

If MOTOROLA is delayed by reason of changes or extra services ordered by the COUNTY, by conditions grantened in this

If MOTOROLA is delayed by reason of changes or extra services ordered by the COUNTY, or by conditions expressed in this section, the time for performance of this Agreement may be extended commensurately by agreement by the Contracting Officer and MOTOROLA.

MOTOROLA will be relieved during the period of such extension of any claim for liquidated damages.

This section may be invoked or waived at the sole option of the COUNTY. The COUNTY must notify MOTOROLA by certified mail in accordance with Section 6. NOTICES of its intent to levy or waive any liquidated damages under this Article. The foregoing will be the COUNTY's sole remedy for delays in the delivery of equipment or the performance of services.

MOTOROLA's right to proceed shall not be terminated nor MOTOROLA be charged with resulting damage if:

- 2.1 The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of MOTOROLA, including but not restricted to acts of the public enemy, acts of the COUNTY in either its sovereign or contracting capacity, acts of another contractor in the COUNTY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both MOTOROLA and such subcontractors or suppliers, and;
- 2.2 MOTOROLA, within 10 days from the beginning of any such delay (unless the Contracting Officer grants a further period of time before the date of final payment under the contract), notifies the Contracting Officer in writing of the causes of delay in (2.1) above

The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgement, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties.

As used in paragraph (2.1) of this clause, the terms, "subcontractors or suppliers" means subcontractors or suppliers at any tier.

#### 3. INVOICES

All deliveries must be accompanied by invoices or delivery tickets. A copy of each invoice or delivery ticket must be signed by the individual accepting delivery. Invoices shall include item, description, quantity, delivery point, price, terms, purchase order number, sub-order number (if

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applicable to a blanket purchase order) and any data relative to the shipment. <u>Original</u> invoice shall be mailed to COUNTY Auditor and Controller, Room 306, 1600 Pacific Highway, San Diego, California, 92101. Discounts will be calculated from receipt of merchandise or invoice, whichever is later.

#### 4. SOFTWARE LICENSE

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929 930 MOTOROLA hereby grants to the COUNTY a nonexclusive and fully paid-up perpetual, software license, to use the 800 MHz system software as defined in the Agreement and described in this Agreement and related documentation, including a copy of the License which is included as Exhibit D.

#### 5. SOURCE CODE

By executing this Agreement, MOTOROLA is making a firm commitment to support the software provided to the COUNTY. However, in order to address any concerns that the COUNTY may have regarding MOTOROLA's ability to support the software, MOTOROLA proposes the following: "In the event that: (i) MOTOROLA discontinues support for an item of MOTOROLA owned software furnished under the Agreement and subsequent releases of such software, if any; and (ii) the COUNTY is, and remains, not in breach of the Agreement or other applicable license agreement; then at the COUNTY's request, MOTOROLA will, at MOTOROLA's option, either recontinue support for such software item; arrange for support by an entity that has access to the source code and related documentation with all revisions, corrections, enliancements and other changes made to the software, so that the source code constitutes a human readable program for the then current release of the software and supported by the then current version of its related documentation for such software item; or grant the COUNTY a license, under separate terms and conditions, to use MOTOROLA-owned Source code corresponding to such software for the COUNTY's internal use by the COUNTY's employees and the COUNTY's agents, consultants, and independent contractors (provided that : prior to their access to such source code, the COUNTY's agents, consultants, and independent contractors enter into a non-disclosure agreement in form and substance that is reasonably satisfactory to MOTCROLA) solely as a trouble analysis aid for isolating, diagnosing, and fixing problems in such software.

### 6. FIRM PRICING STRUCTURE

All pricing quoted in this Agreement, except the prices in Volume III shall be firm for the term of the Agreement; shall apply to all equipment, software, services and supplies; and shall also apply to any equipment changes or additional equipment which the COUNTY may purchase under this Agreement. The COUNTY shall allow MOTOROLA to increase the discount at any time during the term of the Agreement.

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MOTOROLA represents that the products and services under this Agreement have not been previously sold or offered for sale under substantially similar Terms & Conditions and in substantially similar quantities to any other State, County or City at a lower price than the price offered to the COUNTY on products sold under this Agreement.

The prices reflected in Volume III will remain valid for a period of ten (10) years from final system acceptance. Items may be added to Volume III at any time by mutual consent of MOTOROLA and the COUNTY. MOTOROLA shall extend all price reductions to the COUNTY. Price increases shall only be allowed subject to general increases in MOTOROLA's published price list. MOTOROLA may increase prices listed up to a maximum not to exceed the lesser of the Consumer Price Index ("CPT") or three (3) percent. The initial base price shall be the prices listed in this Agreement. Thereafter, the base price shall be the latest adjusted price as established in accordance with the terms of this Section. In no event will prices increase more than once during any COUNTY fiscal year.

At any time during its performance of this Agreement, MOTOROLA may implement changes in the products set forth in Volume III, modify the drawings and specifications relating thereto, or substitute therefor different products; provided, however, that any such changes, modifications or substitutions, under normal and proper use: (i) shall not materially or adversely affect physical or functional interchangeability or performance (except where there is written agreement between the parties that specific characteristics will be so affected); (ii) shall not detract from the safety of the product; and (iii) shall be type-accepted by the appropriate authority, if required. Any replacement products provided by MOTOROLA pursuant to this section shall be offered in accordance with the pricing structure set forth above.

#### 7. FCC/FAA LICENSE

The COUNTY is responsible for obtaining any licenses required by the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA). COUNTY and MOTOROLA expressly agree that the project implementation is contingent upon receipt of proper FCC/FAA licensing. MOTOROLA's performance of this Agreement shall ensure that all applicable requirements of the FCC/FAA licensing are met by the 800 MHz Trunked Radio Communications System.

#### 8. IMPLEMENTATION SCHEDULE

Preliminary and final implementation schedules and final system design shall be prepared by MOTOROLA. The final implementation schedule shall indicate in detail all the 800 MHz system tasks, related subtasks to be performed and the associated dates the tasks are to be performed and a final completion date. No equipment shall be scheduled for delivery more than eight (8) weeks prior to its scheduled installation date without approval of the COTR. The final implementation schedule and system design shall be subject to approval by the COUNTY and shall be provided by MOTOROLA within thirty (30) days after final system design approval.

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The Final Implementation Schedule as approved by the COUNTY shall be attached hereto and becomes a part of this Agreement.

# 9. NON INTERFERENCE WITH RCS AGENCIES

MOTOROLA's performance of work under this Agreement must not interfere unnecessarily with the operation of any RCS agency.

#### 10. INVENTORY

MOTOROLA agrees to maintain an inventory report which includes a line item for COUNTY asset or property tag ID#.

# 11. INTERFACE WITH OTHER VENDORS

MOTOROLA agrees to cooperate with other vendors supplying equipment to, or performing services for, the COUNTY as may be requested by the COUNTY. MOTOROLA specifically agrees not to unreasonably withhold technical data deemed necessary by the COUNTY for interface with equipment or software system supplied to the COUNTY by other vendors. This shall not be construed, however, as implying that MOTOROLA will provide unlimited documentation to other vendors or that special services will be provided. Any request by the COUNTY that MOTOROLA cooperate with other vendors shall recognize MOTOROLA's right to protect its proprietary interests and intellectual property.

# 12. ADVERTISING/PROMOTIONAL TOURS

To protect the privacy, operational effectiveness and integrity of the COUNTY's use of the 800 MHz system, MOTOROLA shall refrain from any advertising of the COUNTY's 800 MHz system and refrain from arranging or encouraging promotional or other visits to the COUNTY, except as specifically approved in advance by the COUNTY. However, the COUNTY agrees that it shall occasionally allow such tours and advertising unless they unreasonably interfere with the communications center or other COUNTY operations.

# 13. STATE-OF-THE-ART EQUIPMENT

The parties acknowledge that the COUNTY desires to have the most current equipment and software for the system at the time of installation. If MOTOROLA becomes aware that improved, compatible equipment or software products are available thirty (30) days prior to shipment, MOTOROLA will notify the COUNTY. In its notice to the COUNTY, MOTOROLA will provide an assessment, to the extent such information is available, of the advantages, disadvantages and cost impact to the COUNTY, if any, of utilizing such alternative equipment or software. The COUNTY will advise MOTOROLA in writing within ten (10) days of its intention to utilize or disregard such alternative equipment or software; failure of the COUNTY

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to advise MOTOROLA will be deemed an election by the COUNTY to disregard the utilization of the alternate equipment or software.

# 14. EQUIPMENT COMPATIBILITY

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- 14.1 MOTOROLA agrees that the hardware and/or software, together with any and all associated equipment it will provide, as otherwise specified in the Agreement and described in the Statement of Work will perform individually and as an integrated System in accordance with the specifications and representations stated in this Agreement. This Agreement does not extend to the performance or integration of the System equipment into a different system generally nor specifically to System equipment in combination with products, elements or components not supplied by MOTOROLA.
- 14.2 During the performance of this Agreement, it is understood that MOTOROLA may implement changes in the products set forth in this Agreement or substitute products of more recent design. This shall be allowed provided that any such changes, modifications and substitutions, under normal use shall not materially or adversely affect physical or functional interchangeability or performance, or result in price changes except where there is prior written agreement between MOTOROLA and the COUNTY that specific characteristics will be so affected and/or price so affected.

## 15. FREIGHT/DELIVERY

MOTOROLA assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance and other services associated with delivery of the equipment and materials under this Agreement. MOTOROLA will notify the COUNTY of impending shipments not later than ten (10) County work days prior to actual shipment. All costs associated with shipment and/or transportation and handling of any item purchased under this Agreement are included in the total contract amount. All freight must be F.O.B. destination, prepaid and shall be unloaded at COUNTY specified sites by the carrier or MOTOROLA.

# 16. PATENT INDEMNIFICATION

MOTOROLA agrees to defend, at its expense, any suits against the COUNTY based upon a claim that any products furnished hereunder directly infringes a U.S. Patent or copyright, and to pay costs and damages finally awarded in any such suit, provided that the COUNTY promptly notifies MOTOROLA in writing and at MOTOROLA's request and expense is given control of said suit and all requested assistance for defense of same. If the use or sale of any such product furnished hereunder is enjoined as a result of such suit, MOTOROLA, at its option, and at no cost to the COUNTY, shall obtain for the COUNTY the right to use or sell such product, modify the product to make it non-infringing or substitute an equivalent product reasonably acceptable to the COUNTY and extend this indemnity thereto or, if none of the foregoing remedies are reasonably available to MOTOROLA, accept return of the product and reimburse the COUNTY

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the full purchase price therefor less a reasonable charge for reasonable wear and tear. This indemnity does not extend to any suit based upon any infringement or alleged infringement of any patent or copyright by the combination of any product(s) firmished by MOTOROLA and other elements nor does it extend to any product(s) of the COUNTY's design or formula.

# 17. STANDARDS OF PERFORMANCE AND ACCEPTANCE TESTING

MOTOROLA shall certify in writing to the COUNTY when the 800 MHz System or subsystems supplied by MOTOROLA are installed and ready for use. The 800 MHz System or subsystems will be ready for use upon successful completion of acceptance testing as set forth in the Acceptance Test Plan (ATP). Acceptance shall be deemed to have occurred only when the COTR has provided MOTOROLA with written certification of system or subsystem acceptance. MOTOROLA shall record the test results in conjunction with COUNTY staff and provide the COUNTY with error-free test results for COUNTY verification. The system or subsystem shall not be accepted until the standards of performance are met. Prior to acceptance, the COUNTY will obtain RCS Board review and approval. Such standards of performance and acceptance testing shall conform to specifications as defined in Volume II - Statement of Work.

## 18. PROJECT/CONTRACT FINANCIAL REPORTING

MOTOROLA shall, as part of the monthly status report, provide monthly financial reporting of all contract milestones, deliverables, invoices, change orders and task orders.

## 19. PAYMENT APPROVAL PROCESS

Payment to MOTOROLA will be made by the COUNTY subject to the following process:

- COUNTY and MOTOROLA project managers will review items/services delivered.
- If COUNTY approves deliverable/milestone, approval will be provided on written sign-offform. Prior to payment, the COUNTY will obtain RCS Board review and approval.
- MOTOROLA will invoice monthly based on approved sign-off forms received from COUNTY.
- COUNTY will make payments based only on approved sign-off forms prior to month-end.
- COUNTY will make payment within 30 days after receipt of invoice from MOTOROLA.

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## 20. WARRANTY

 Warranty of the RCS System and its equipment shall be in accordance with Exhibit C which is incorporated in the Agreement.

## 21. FORCE MAJEURE

Neither MOTOROLA nor the COUNTY will be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts will include, not be limited to, acts of God; fire; strikes; material shortages; compliance with laws or regulations; riots; acts of war; or any other conditions beyond the reasonable control of the party or parties. Delays as identified herein may cause an impact on the period of performance stated in the Agreement.

# 22. REQUIRED APPROVALS

Where agreement, approval, acceptance, or consent by either party is required by any provision of this Agreement, such action will not be unreasonably delayed or withheld.

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# EXHIBIT A PRICING SHEET

# County of San Diego Regional Communications System

Equipment Bumnessy:			4
600 Mer Touris	, '	Sub-Totals	Totais
300 MHZ Trunked System			
Master Site (PSC)	1,674,301,96		
North Simulcost System	1,913,203,54		
South Simulcast System	1,910,293,37		
Single Site Systems	1.0 (V,Z33.3/		
Mobiles, Portables, & Control Stations	885,977.17		
	11,574,696,70		
Mobile Data System	Ÿ		
Mobile Data infrastructure	d d 277 Years		
960 MHz Link Equipment	1,147,738.48		
Mobile Data Terrunal Devices	26,630.44		
•	0,00		
Microwave System			
Microwave Equipment			
Microwave Vendor Services	. 7.00		*
Channel Banks	•	0.00	
	4,695,484,50		
Antenna Systems		•	
Arkenna Systems	) 15mm==		
	1,542,467,59		
Dispatch Centers			
ECC Fundam		v	
ECC Equipment	Optional Eq. List		
TMC Equipment	1.017,836.1g	-	
Control Stations	263/941,13		
	108,697,66		
BOO MHz Mutual Aid Equipment		•	
500 MHz Mutual Aid Equipment	-		
-Ectio-HI/TRE	250,823,04		
	144,275,91	ı	
Common Equipment			
Recommended 2			
Recommended Spare Parts and Equipment Recommended Text Equipment	421,588.58		
Manuals (ask Equipment	244,568.47		
ai 100 (1988)	19,299,90	•	
County Specified Equipment			
Test Equipment			
Shato bega oos chalaista	373,049,80		
4.5-m 6 to 19150	30,267,05		
Equipment Total:			
Vander Services Total:	28,245,141,47	4	
Total Continues of the	~ w, 40744, 474 1, 49 4		
Total Equipment and Vendor Services:		0.00	
•		28,245	141,47

## Orest Services:

•			
Detailed System Design		•	
Detailed implementation Pleases			1,471,320.75
ATTENDED PROCESSORES Command			316,916.75
MICTOWAYA ITRIAMAMATANIA A		***	171,279,25
( appeal premitto survivos			420,964,00
(netalliation & Integration	;	-	772,788.00
Uptimization & Accompany Taxas	•		1,639,116,91
Cystern Occumentation			1,285,191,25
Post-Acceptance System Manager			271,363.25
TOTAL CONTRACTOR OF THE PROPERTY OF THE PROPER			777,370,00
Program Marsighment			109,156,50
Project Administration			715 200 oo
		•	351,000,00
Total Direct Services			1254,00

8,301,664,66

12/28/95

Motorota Confidential and Proprietary

## County of San Olego Regional Communications System

### Indirect Services:

Factory Staging & Implementation Services CCSI Factory Staging CCSI Factory Supplied Cabling RNG Factory Staging

870,928.88 302,931.78 0.00

**Total Indirect Services** 

1,173,860,66

Total Services

9,475,525,32

Office Costs:

System Warrenty Period Meintenance - FNE (1-Year, 5x8)

Voice, Data, & Microwave Infrastructure
RNG Hardware/Software

634,920,63 0,00 519,647.62

Training Freight

Performance Bonda (25% Perf.; 10% Payment)

479,649,82 51,250.00

Total Other Costs

1,684,468,08

Total Services and Other Casts

Total System Before Tax:

Tax (7% of equipment):

1,977,159,90

System Discount (4.34%)

-1,710,182,85

Grand Total (w/o Microwave; w/o MDTs/AVL)

39,672,111.92

Net estimated excrow earnings attributable to Equipment and Services

-2.210,000,00

Net funded Motorois ience amount

37,462,111,92

12/28/95

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# EXHIBIT B MILESTONE PAYMENT SCHEDULE AND TERMS

- 1. Upon acceptance by the County of the detailed Subsystem Overviews, Subsystem Descriptions, System Diagrams and Equipment Lists, Motorola shall bill for and be paid the sum of \$3,967,211.00
- 2. Upon acceptance by the County of the detailed system Acceptance Test Procedures, Motorola shall bill for and be paid the sum of \$3,967,211.00

COUNTY acceptance or rejection of the documents listed in this Exhibit shall be provided in writing within fifteen calendar days after the documents are received by the COUNTY.

- 3. Upon receipt, installation and acceptance of the backbone equipment, Motorola shall bill for and be paid for the following, including tax and freight on a sub-system basis (unless otherwise mutually agreed):
  - a) \$10,002,172.66 upon receipt of equipment.
  - b) \$869,754.14 upon completion of installation on a site by site basis.
- 4. Upon receipt and acceptance of the following direct services, Motorola shall bill for and be paid the following amounts:
  - a) Delivery of Final Detailed System Design Documentation: \$1,813,475.30
  - b) Factory Staging Support due upon shipment of staged equipment: \$1,193,120,46
  - c) Optimization and Acceptance Services and Other Costs due upon conditional acceptance of 800 Mhz voice system: \$1,576,937.55
  - d) Training Support Courses (as each course is completed): \$261,868.31
  - e) Program Management Services: \$15,670.17 per month beginning 30 days after contract execution for a period of 23 months.
  - f) Program Administration Services: \$7,690.48 per month beginning 30 days after contract execution for a period of 23 months.
- 5. The balance of all field equipment, (\$10,064,859.00) to include portables, mobiles, control stations, and all antenna, line and connector equipment shall be billed upon receipt at the prices set forth in Volume III or such other prices as mutually agreed and recognized by Change Order or Task Order issued under this AGREEMENT, including tax and freight.

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- 6. Conditional Acceptance / Beneficial Use of the 800 Mhz System shall constitute the basis for a payment of \$2,167,283.12.
- 7. Final Acceptance of all subsystems shall constitute the basis for a payment of \$3,250,924.68 which shall include retention of all remaining amounts and the balance of the contract price, excluding task orders / options.

Receipt of mobile, portable and control station equipment is defined to occur upon delivery and signed receipt by a County representative at a location designated by the County at least 30 days prior to shipment. Receipt of all other equipment is defined to occur upon delivery and signed acknowledgement of delivery by a County representative at a location designated by Motorola within San Diego County. The County will sign the acknowledgement of delivery within 5 days of request of Motorola.

Payment shall be made within 30 days of receipt of a properly executed and approved invoice by the Auditor / Controller.

Schedules for all items are set forth in Volume II. No payments shall be made for equipment delivered in advance of the agreed schedules. Change or Task Orders which modify the delivery schedules and milestones set forth in Volume II shall adjust the above payment schedules. Any such Change or Task Order shall set forth revised pricing and payment schedules based upon mutual agreement in the case of Change Orders exceeding. \$25,000.

#### LICENSE AGREEMENT

This License Agreement is between MCTOROLA, INC., a Delaware Corporation, having an office at 1301 East Algonquin Road, Schaumburg, Illinois 60196 ("Motorota") and the Licensee named below ("Licensee").

WHEREAS, Motorola has developed or acquired, or will develop or acquire Programs (as hereinafter defined) and/or Programs for incorporation into Motorola Products;

WHEREAS, when the Licensee purchases, from time to time through various purchase contracts or otherwise, Programs and/or Programs incorporated into Motorola Products, the Licensee acquires certain rights in such Programs and may utilize such Programs in accordance with this License Agreement; and

WHEREAS, at the time of purchase by Licensee, a Software License Level may be indicated for each Program or Program contained within a Motorola Product on such purchase contracts or otherwise.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter expressed, Licensee and Motorola agree as follows:

#### Section 1 DEFINITIONS

- 1.1 "LICENSEE" shall mean the licensee indicated at the end of this Agreement.
- 1.2 "LICENSED SUBSIDIARIES" shall mean all Subsidiaries of Licensee that have executed this Agreement or an Addendum hereto agreeing that the terms and conditions of this Agreement shall apply to such Subsidiary. Upon becoming a Licensed Subsidiary, such Subsidiary shall be treated for all purposes as a Licensee hereunder and shall be bound by all of the terms and conditions hereof.
- 1.3 "LICENSEE'S PERSONNEL" shall mean any person who is directly employed by the Licensee.
- 1.4 "MOTOROLA PRODUCTS" shall mean products designed, manufactured, acquired and/or sold by Motorola, Inc., as identified in purchase contracts or as otherwise identified.
- 1.5 "PHOGRAMS" shall mean object code software for use in conjunction with Motorola Products or for use within Motorola Products.
- 1.6 "SUBSIDIARY" shall mean any corporation, company, or other entity more than fifty percent (50%) of whose outstanding shares of stock entitled to vote for the election of directors (other than any shares or stock whose voting rights are subject to restriction) is owned or controlled by a party hereto, directly or indirectly, now or hereafter, but any such company or other entity is a Subsidiary only so long as such ownership or control exists.
- 1.7 "TRANSFEREE" shall mean a third party corporation, company, or other entity (other than a Licensed Subsidiary) that may acquire rights in certain Programs having a Level Two Software License through a written agreement with the Licensee.

#### Section 2 LICENSE

- 2.1 LEVEL ONE SOFTWARE LICENSE: Motorola hereby grants to Licensee a personal, non-exclusive, and nontransferable Level One Software License for Programs purchased by Licensee which are identified, in writing, as Level One Software, and for any such Programs that do not have an expressly written software level. A Level One Software License shall contain the following terms and provisions:
  - 2.1.1 Licensee may use such Programs solely for the intended purpose of the Programs;
  - 2.1.2 Licensee may only use Programs in the United States, in a country expressly stated in purchase contracts pertaining to the Programs, or in a country that is otherwise identified in a written agreement that is signed by at least Motorola;
  - 2.1.3 Licensee shall not disseminate, disclose, or make available the Programs, or any parts thereof; in any form to a third party without the express written consent of Motorola;
  - 2.1.4 Licensee shall not disassemble or reverse engineer the Programs, or any portion thereof, without the express written consent of Motoroia;
  - 2.1.5 Licensee will take appropriate action, by instruction, agreement or otherwise, with any persons, including Licensee's Personnel, permitted access to the Programs, such that Licensee satisfies its confidentiality obligations under this License Agreement;
  - 2.1.6 Licensee shall not make copies of the Programs without the express written consent of Motorola, except for up to four (4) backup copies;
  - 2.1.7 Title to Programs and any copies thereof, in whole or in part, and all rights in patents, copyrights, trade secrets, and other intellectual properties of such Programs are vested in Motorola;
  - 2.1.8 The Licensee shall include all copyright notices, trademark notices, and other proprietary legends in accordance with Motorola's instructions on all copies of the Programs it makes; and
  - 2.1.9 Licensee acknowledges and agrees that the existence of any copyright notice on any Program shall not be construed as an admission or presumption that publication of such Program has occurred.
- 2.2 LEVEL TWO SOFTWARE LICENSE: Motorola hereby grants to Licensee a personal, non-exclusive, transferable Level Two Software License for such Programs purchased by Licensee which are identified, in writing as Level Two Software. A Level Two Software License shall contain the following terms:
  - 2.2.1 Licensee may use such Programs solely for the intended purpose of the Programs and only in the distributed form of the Programs;
  - 2.2.2 Licensee shall not make copies of the Programs except for four (4) back-up copies; however, this restriction does not include records stored on electronic or magnetic media that have been created by the Programs and used for system management purposes;

#### Exhibit B

- 2.2.3 Licensee shall not modify, adapt, or merge the Programs;
- 2.2.4 Licensee shall not make the Programs available to a third party that is not bound by a similar License Agreement and does not have a need to know;
- 2.2.5 Licensee may not disassemble, decompile, or otherwise reverse engineer the Programs;
- 2.2.6 Licensee shall pay all applicable sales and use taxes or certify its exemption therefrom;
- 2.2.7 Licensee shall comply with the export regulations of the Office of Export Administration for the United States Department of Commerce;
- 2.2.8 Licensee may transfer such Programs in their entirety to a Transferee, but only if the Transferee uses the Programs under the same License terms and provisions as specified herein from Motorola; and
- 2.2.9 Title to Programs and any copies thereof, in whole or in part, and all rights in patents, copyrights, trade secrets, and other intellectual properties of such Programs are vested in Motorola.
- 2.3 LEVEL THREE SOFTWARE LICENSE: Motorola hereby grants to Licensee a personal, non-exclusive, and nontransferable Level Three Software License for such Programs purchased by Licensee which are identified, in writing, as Level Three Software. A Level Three Software License shall contain the following terms and provisions:
  - 2.3.1 Licensee may use Programs solely for the intended purpose of the Programs;
  - 2.3.2 Licensee may only use Programs at a site, or sites, expressly stated in purchase contracts pertaining to the Programs, or at a site, or sites that are otherwise identified in a written agreement that is signed by Motorola. If a site is not specified, the Licensee may use the Programs only at the facility where the Programs were initially installed;
  - 2.3.3 Licensee shall not disseminate, disclose, or make available the Programs, or any parts thereof, in any form to a third party without the express written consent of Motorcia;
  - 2.3.4 Licensee shall not disassemble or reverse engineer the Programs, or any portion thereof, without the express written consent of Motorola;
  - 2.3.5 Licensee will take appropriate action, by instruction, agreement or otherwise, with any persons, including Licensee's Personnel, permitted access to the Programs, such that Licensee satisfies its confidentiality obligations under this License Agreement;
  - 2.3.6 Licensee may make copies of the Programs, but only in sufficient quantities to service the site, or sites, expressly stated in purchase contracts pertaining to the Programs or otherwise identified in a written agreement that is signed by at least Motorcia. If a site is not specified, the Licensee may only make copies of the Programs in sufficient quantities to service the facility where the Programs were initially installed;

- 2.3.7 Title to Programs and any copies thereof, in whole or in part, and all rights in patents, copyrights, trade secrets, and other intellectual properties of such Programs are vested in Motorola;
- 2.3.8 The Licensee shall include all copyright notices, trademark notices, and other proprietary legends in accordance with Motorola's instructions on all copies of the Programs it makes; and
- 2.3.9 Licensee acknowledges and agrees that the existence of any copyright notice on any Program shall not be construed as an admission or presumption that publication of such Program has occurred.

# Section 3 PROVISIONS AND CONDITIONS FOR SOFTWARE LICENSES

- 3.1 Licensee agrees to pay for each Program, a one-time, lump-sum, License fee. Each such License fee shall be due and payable upon receipt of invoice unless otherwise specified. Service charges at the maximum rate permitted by applicable law may be invoiced on accounts more than ten (10) days past due and shall be due and payable upon receipt of invoice for such service charges.
- \*3.2 The License fee for each Program will be listed in Motorola's current Price Book, current addendum to such Price Book, or other tangible form. License fees in the Price Book are subject to change without notice. Orders for each Program will be billed at the License fee in effect on the day Licensee's order is entered.
- 3.3 Licensee shall pay all sales, use and excise taxes, and any other assessments in the nature of taxes, however designated:
  - 3.3.1 on each Program or its License or use;
  - 3.3.2 resulting from this License Agreement; or
  - 3.3.3 on any amount payable for any services furnished under this License Agreement, exclusive of personal property taxes assessed on the Program and taxes based on Motorcia's net Income, unless Licensee furnishes Motorcia with a certificate of exemption from payment of such taxes which is in a form reasonably acceptable to Motorcia.
- 3.4 Licensee shall not assign or transfer this License Agreement or sublicense any Program purchased under this License Agreement without the prior written consent of Motorola. Any prohibited assignment, transfer or sublicense shall be null and void.
- 3.5 Motorola reserves the right to assign this License Agreement, encumber or sell any Program, or subcontract any of its obligations hereunder, either in whole or in part, without notice to or the consent of Licensee.
- 3.6 Motorola shall not be responsible for support or field service of any Program under this License Agreement. Any maintenance by Motorola, if available, shall be by separate agreement on Motorola's then current terms and conditions and at Motorola's then current prevailing rates for such maintenance.

## Section 4 TERM OF LICENSE AGREEMENT

- 4.1 This License Agreement shall have a term of ten (10) years and shall be applicable to all Programs and/or Programs contained within Motorola Products that are purchased, or otherwise acquired, by Licensee; or Transferee, during the term of this License Agreement.
- 4.2 This License Agreement may be terminated prior to the expiration of the ten year term for the reasons set forth in Section 6. For premature termination, the procedures specified in Section 6 must be followed.

### Section 5 CONFIDENTIALITY

- 5.1 Licensee shall keep each Program confidential and shall not use any Program for any purpose other than its intended purpose.
- 5.2 Licensee shall restrict access to each Program to Licensee's Personnel who have a need to know.
- 5.3 Licensee shall not disclose or disseminate Programs, or any parts thereof, to any third party during the term of this License Agreement and for a period of ten years after the termination of this License Agreement, without the express written consent of Motorola.
- 5.4 The obligations of this Section 5 shall survive the expiration, termination, or cancellation of this License Agreement for any cause.
- 5.5 The obligations of this Section 5 shall not apply to information that:
  - 5.5.1 is or becomes publicly known through no wrongful act on the part of Licensee;
  - 5.5.2 Is already known to Licensee at the time of disclosure;
  - 5.5.3 Is rightfully received by Licensee from a third party without breach of this License Agreement; or
  - 5.5.4 is explicitly approved for public release by written authorization of Motorola.

#### Section 6 TERMINATION

- 6.1 If either party commits a material breach of any of its obligations set forth herein, in a purchase contract for Programs, or other agreement regarding Programs, the other party may give written notice of termination to the breaching party. The written notice of termination shall specify the material breach and must specify whether the entire License Agreement is being terminated or whether the License Agreement is being terminated with respect to a particular Program, or particular Programs. Upon receipt of the written notice of termination, the breaching party shall have sixty (60) days to cure the material breach. In the event that the material breach is not cured during the sixty (60) days, the License Agreement is terminated as specified in the written notice of termination.
- 6.2 The termination set forth in Section 6.1 shall not be exclusive of any other remedies or means of redress to which the non-breaching party may be lawfully entitled.

6.3 Upon termination of this License Agreement or termination of this License Agreement for any particular Program(s), Licensee shall promptly forward to Motorola, or to Motorola's designee, all copies of Programs for which this License Agreement is terminated.

#### Section 7 WARRANTY

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- 7.1 For the first one (1) year following its Initial shipment, Motorola warrants that, when properly used, its Programs will be free from reproducible defects that cause a material variance from its published specification. However, Motorola does not warrant that Program operation will be uninterrupted or error-free, that each defect will be corrected, or that any Program will meet Licensee's particular requirements.
- .7.2 MOTOROLA'S TOTAL LIABILITY AND LICENSEE'S SOLE REMEDY FOR ANY WARRANTED PROGRAM SHALL BE LIMITED TO, AT MOTOROLA'S OPTION, PROGRAM REPLACEMENT OR THE PAYMENT OF LICENSEE'S ACTUAL DAMAGES, NOT TO EXCEED THE SUMS PAID TO MOTOROLA FOR THE MOTOROLA PRODUCT INCORPORATING THE DEFECTIVE PROGRAM. THIS WARRANTY EXTENDS ONLY TO THE FIRST LICENSEE; SUBSEQUENT TRANSFEREES ACCEPT THESE PROGRAMS "AS IS" AND WITHOUT WARRANTIES OF ANY KIND. THIS WARRANTY REPLACES ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## Section 8 LIMITATION OF LIABILITY

- 8.1 The entire Motorola liability to Licensee for damages concerning performance or nonperformance by Motorola under the License Agreement or in any way related to the subject matter of the License Agreement, regardless of whether the claim for such damages is based in contract, tort or otherwise, and Licensee's sole and exclusive remedy shall be limited to the payment by Motorola of actual damages not to exceed the total License fee paid by Licensee for the Program, or Programs that caused the damages or is the subject matter of or is directly related to such claim.
- IN NO EVENT SHALL MOTOROLA BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF USE, TIME OR DATA, INCONVENIENCE, COMMERCIAL LOSS, LOST PROFITS OR SAVINGS) TO THE FULL EXTENT SUCH MAY BE DISCLAIMED BY LAW EVEN IF MOTOROLA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY CLAIM AGAINST LICENSEE BY ANY OTHER PARTY.

### Section 9 INDEMNIFICATION

9.1 If promptly notified in writing, Motorola will defend any suit against Licensee that claims that U.S. patents, copyrights, or trade secrets of another have been infringed solely by Motorola's unaltered Programs and will pay any associated costs or damages finally awarded. Upon Motorola's request, Licensee agrees to reasonably assist in any defense and surrender control of the suit to Motorola. Motorola may elect, at any time, to modify or replace these Programs with equivalent non-infringing items, obtain the right to continue using the Programs or, if these remedies are not reasonably available, terminate this License Agreement with respect to such Programs. Motorola shall have no liability for infringement that arises from any modification of Motorola's Programs by Licensee or from Licensee's combination of Motorola's Programs with another's.

#### Section 10 DISPUTES

- Motorola and the Licensee will attempt to settle any claim or controversy arising out of this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. If those attempts fail, then the dispute will be mediated by a mutually acceptable mediator to be chosen by Motorola and the Licensee within thirty (30) days after written notice by one of the parties demanding non-binding mediation. Neither one of the parties may unreasonably withhold consent to the selection of a mediator, and Motorola and the Licensee will share the cost of the mediation equally. By mutual agreement, however, Motorola and Licensee may postpone mediation until both parties have completed some specified but limited discovery about the dispute. The parties may also agree to replace mediation with some other form of non-binding alternate dispute resolution procedure ("ADR").
- Any dispute which cannot be resolved between the parties through negotiation or mediation within two (2) months of the date of the initial demand for it by one of the parties may then be submitted to a court of competent jurisdiction in lillinois. Both Motorola and Licensee consent to jurisdiction over it by such a court. The use of any ADR procedures will not be considered under the doctrine of laches, waiver or estoppel to affect adversely the rights of either party. Nothing shall prevent either of the parties from resorting to the judicial proceedings mentioned in this paragraph if (a) good faith efforts to attempt resolution of the dispute under these procedures have been unsuccessful or (b) interim relief from the court is necessary to prevent serious and irreparable injury to one of the parties or others.

## Section 11 GENERAL PROVISIONS

- 11.1 This License Agreement constitutes the complete and exclusive statement of the agreement between Motorola and Licensee, and supersedes all oral or written proposals, prior agreements and other prior communications between the parties, concerning the subject matter of the License Agreement.
- 11.2 All formal notices, consents and other communications required or permitted under this License Agreement shall be in writing and shall be sent in such a way as to assure receipt by the other party. Either party may change its address for formal notices by written notice to the other party.
- 11.3 This License Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- 11.4 No representation or promise relating to, and no amendment of, this License Agreement shall be binding unless it is in writing and signed by both parties.
- 11.5 The terms and conditions of this License Agreement shall prevail notwithstanding any variance with the terms and conditions of any order submitted by Licensee.
- 11.6 Motorola shall not be liable for any failure to perform due to causes beyond its reasonable control.
- 1.7 No waiver by a party of any breach of any provision of this License Agreement shall constitute a waiver of any other breach of that or any other provision of this License Agreement.

#### Exhibit B

- 11.8 Licensee recognizes that applicable Federal Communications Act and other statutes, laws, ordinances, rules, and regulations may change from time to time and that accordingly Motorola in its sole discretion has the right without liability to modify this License Agreement to comply with such change.
- 11.9 In the event that any of the provisions contained in this License Agreement are held to be unenforceable, this License Agreement shall be construed without such provisions.
- 11.10 No action, regardless of form, arising out of the License Agreement may be brought by Licensee more than one (1) year after the cause of action has arisen.
- 11.11 When, at the time a Program or Program contained within a Motorola Product is shipped, a Software Level is not indicated in the purchase contract or otherwise, such Program shall be deemed Level One Software. The Software Level of a Program may be amended by a written agreement signed by Motorola.

ACCEPTED AND APPROVED AS OF		• .
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MOTOROLA:	LICENSEE:	
MOTOROLA INC.	PURCHASER	•
By:(Authorized Signature)	Bv:	•
(Authorized Signature)	· ·	. (Authorized Signature)
Name: (Print - Block Letters)	Name:	
(Print - Block Latters)		(Print - Black Letters)
Title: [Print - Block Letters)	Title:	
( <sup>p</sup> rint - Block Letters)		(Print - Block Letters)
Date:	Date:	
N <sub>e</sub>	Customer #:	,
Address for Formal Notices: Address	for Formal Notices:	
Motorola, Inc. 303 East Algonquin Road Schaumburg, Illinois 60196 httn.: Intellectual Property Departme		, =
LICENSED SUBSIDIARIES (If a	ny) ; <u> </u>	
NAME: TITLE: DATE:		

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY WAIVING THE FORMAL BID PROCESS PURSUANT TO NATIONAL CITY MUNICIPAL CODE SECTION 2.60.260 REGARDING COOPERATIVE PURCHASING AND AUTHORIZING THE CITY TO PIGGYBACK THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES CONTRACT NO. 1-18-23-14B TO AWARD THE PURCHASE AND BUILD-OUT OF SIX (6) FULLY EQUIPPED POLICE PATROL VEHICLES TO FOLSOM LAKE FORD IN AN AMOUNT NOT TO EXCEED \$363,109.38; AND TO PIGGYBACK COUNTY OF SAN DIEGO DEPARTMENT OF PURCHASING AND CONTRACTING CONTRACT #550743 TO AWARD THE PURCHASE OF POLICE RADIOS FOR THE NEW PATROL VEHICLES TO THE REGIONAL COMMUNICATIONS SYSTEM (RCS) VENDOR, MOTOROLA SOLUTIONS, INC., IN AN AMOUNT NOT TO EXCEED \$27,729.91

WHEREAS, as part of the Fiscal Year 2019 annual budget, City Council approved funding through the Equipment Replacement Reserve for the purchase of six (6) patrol vehicles for the National City Police Department; and

WHEREAS, there is an opportunity for the City to piggyback onto General Services Contact No. 1-18-23-14B with Folsom Lake Ford to award the purchase and build-out of six (6) fully-equipped police patrol vehicles for an amount not to exceed \$363,109.38; and

WHEREAS, Folsom Lake Ford will subcontract with Lehr Auto Electric & Emergency Equipment for the build-out and up-fitting of the police department vehicles; and

WHEREAS, there is also an opportunity for the City to piggyback onto County of San Diego Department of Purchasing and Contracting Contract No. 550743 with the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., for the purchase of police radios for the new patrol vehicles in an amount not to exceed \$27,729.91; and

WHEREAS, National City Municipal Code Section 2.60.260 provides authority to the purchasing agent to join with other public jurisdictions to take advantage of cooperative purchasing opportunities, including but not limited to any federal, state or local agency pricing program or structure that is determined by the purchasing agent to allow a procurement that is in the best interests of the City. The purchasing agent may buy directly from a vendor at a price established through competitive bidding by another public agency whose procedures have been determined by the purchasing agent to be in substantial compliance with the City's procurement procedures, irrespective of the contracting limits of that jurisdiction or agency, even if the City had not initially joined with that public agency in the cooperative purchase; and

WHEREAS, National City's purchasing staff has confirmed that both State of California Department of General Services Contract No. 1-18-23-14B with Folsom Lake Ford and County of San Diego Department of Purchasing and Contracting Contract No. 550743 with the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., were both competitively bid through a Request for Bid (RFB) and bid process, and that the respective procurement procedures are in substantial compliance with those of National City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby affirms the determination that the State of California's procurement procedures are in substantial compliance with the City's, and pursuant to Section 2.60.260 of the Municipal Code, authorizes the waiver of the formal bid process consistent with National

Resolution No. 2018 – Page Two

City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizes the City to piggyback onto General Services Contact No. 1-18-23-14B with Folsom Lake Ford to award the purchase and build-out of six (6) fully equipped police patrol vehicles to Folsom Lake Ford in an amount not to exceed \$363,109.38.

BE IT FURTHER RESOLVED that the City Council of the City of National City hereby affirms the determination that the State of California's procurement procedures are in substantial compliance with the City's, and pursuant to Section 2.60.260 of the Municipal Code, authorizes the waiver of the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizes the City to piggyback onto County of San Diego Department of Purchasing and Contracting Contract No. 550743 with the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., to award the purchase of police radios for the new patrol vehicles to the Regional Communications System (RCS) vendor, Motorola Solutions, Inc., in an amount not to exceed \$27,729.91.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City, waiving the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City (Buyer) to piggyback the National Joint Pow

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018 AGENDA ITEM NO.

#### ITEM TITLE:

Resolution of the City Council of the City of National City, waiving the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City (Buyer) to piggyback the National Joint Powers Alliance Contract #120716-NAF to award the purchase and build-out of two (2) 2019 Ford Transit Connect Vans (S7E) XL LWB to National Auto Fleet Group in an amount not to exceed \$58,506.68 for the Engineering and Public Works Facilities Maintenance Division.

PREPARED BY: Ray Roberson, Management Analyst II

PHONE: (619) 336-4583

EXPLANATION:

See attached explanation.

PINANCIAL STATEMENT:

ACCOUNT NO.

644-416-223-511-0000 (Equipment Replacement Reserve): \$58,506.68 |
\$70,000 is appropriated in the FY2019 budget for utility vans.

ENVIRONMENTAL REVIEW:

N/A

#### STAFF RECOMMENDATION:

ORDINANCE: INTRODUCTION:

Adopt Resolution awarding the purchase and build-out of two (2) utility vans for the Engineering and Public Works Facilities Maintenance Division.

FINAL ADOPTION:

#### **BOARD / COMMISSION RECOMMENDATION:**

N/A.

#### ATTACHMENTS:

- Explanation
- 2. National Auto Fleet Group Quote
- 3. National Joint Powers Alliance Contract #120716-NAF
- Resolution

### Explanation:

As part of the FY 2019 annual budget, City Council approved funding through the Equipment Replacement Reserve for the purchase of two (2) utility vans for the Engineering and Public Works Facilities Maintenance Division. Staff seeks Council authority to waive the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorize the City (Buyer) to piggyback the National Joint Powers Alliance Contract #1207-16-NAF to award the purchase and build-out of two (2) utility vans to National Auto Fleet Group in an amount not to exceed \$58,506.68. National Auto Fleet Group will subcontract with Commercial Van Interiors for the build-out of the utility vans.

NCMC Section 2.60.260 provides authority to the purchasing agent to join with other public jurisdictions to take advantage of cooperative purchasing opportunities, including but not limited to any federal, state or local agency pricing program or structure that is determined by the purchasing agent to allow a procurement that is in the best interests of the City. The purchasing agent may buy directly from a vendor at a price established through competitive bidding by another public agency whose procedures have been determined by the purchasing agent to be in substantial compliance with the City's procurement procedures, irrespective of the contracting limits of that jurisdiction or agency, even if the City had not initially joined with that public agency in the cooperative purchase.

National City's purchasing staff has confirmed that the National Joint Powers Alliance Contract #120716-NAF with National Auto Fleet Group was competitively bid through a Request for Bid (RFB) and bid process, and that the respective procurement procedures are in substantial compliance with those of National City.



### National Auto Fleet Group

490 Auto Center Drive, Watsonville, CA 95076 (855) 289-8572 • (855) BUY-NJPA • (831) 480-8497 Fax Fleet@NationalAutoFleetGroup.com

7/3/2018

QuoteID: 7424

Order Cut Off Date: TBA

Mr Tony Gaut City of National City 1726 Wilson Ave

National City, California, 91950

Dear Tony Gaut,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.

Two (2) New/Unused (2019 Ford Transit Connect Van (S7E) XL LWB w/Rear Symmetrical Doors, Composite Partition) and delivered to your specified location, each for

	One Unit	Extended Unit's (2)
Contract Price	\$25,335.34	\$50,670.68
Composite Partition	\$1,556.24	\$3,112.48
Tax (8.7500 %)	\$2,353.01	\$4,706.02
Tire fee	\$8.75	* \$17.50
Total	\$29,253.34	\$58,506.68

<sup>-</sup> per the attached specifications.

This vehicle(s) is available under the **National Joint Powers Alliance Contract 120716-NAF**. Please reference this Contract number on all purchase orders to National Auto Fleet Group. Payment terms are Net 30 days after receipt of vehicle.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Jesse Cooper

Account Manager

Email: Fleet@NationalAutoFleetGroup.com

Office: (855) 289-6572 Fax: (831) 480-8497 Quoting Department

Account Manager

Fleet@NationalAutoFleetGroup.com

(855) 289-6572













HATE A STATE OF THE SECOND

# In order to Finalize your Quote, please submit this purchase packet to your governing body for Purchase Order Approval. Once you issue a Purchase Order please send by:

Fax: (831) 480-8497

Mail: National Auto Fleet Group

490 Auto Center Drive Watsonville, CA 95076

Email: Fleet@nationalautofleetgroup.com

We will then send a W-9 if you need one

Please contact our main office with any questions: 1-855-289-6572

### **Vehicle Configuration Options**

ENGINE	
Code	Description
992	ENGINE: 2.0L GDI I-4 GAS, -inc: auto start/stop system and EcoMode (STD)
TRANSM	IISSION
Code	Description
****	TRANSMISSION: 8-SPEED SELECTSHIFT AUTOMATIC, (STD)
PRIMAR	Y PAINT
Code	Description
Z2	FROZEN WHITE
PAINT S	CHEME
Code	Description
	STANDARD PAINT
SEAT TY	PE
Code	Description
SB	EBONY, VINYL FRONT BUCKET SEATS, -inc: 6-way manual driver seat (fore/aft, up/down & lever recline) and 4-way manual passenger seat (fore/aft & lever recline) w/fold-flat back
AXLE RA	XTIO
Code	Description
***********	3.80 AXLE RATIO, (STD)
ADDITIO	NAL EQUIPMENT
Code	Description
53T	TRAILER TOW PACKAGE, -inc: trailer tow hitch w/trailer sway control (class 1, 2000 lbs capability, trailer module and 4-pin connector)
87R	KEY FOBS (2 ADDITIONAL)
525	CRUISE CONTROL, -inc: 4-Spoke Steering Wheel, satin chrome shells
76D	LED REAR CARGO AREA LIGHT, -inc: In place of the standard rear cargo area light
OPTION	PACKAGE
Code	Description
100A	ORDER CODE 100A

## 2019 Fleet/Non-Retail Ford Transit Connect Van XL LWB w/Rear Symmetrical Doors

### WINDOW STICKER

2019 For	d Transit Connect Van XL LWB w/Rear Symmetrical Doors	
CODE	MODEL	MSRP
S7E	2019 Ford Transit Connect Van XL LWB w/Rear Symmetrical Doors	\$25,100.00
	OPTIONS	
992	ENGINE: 2.0L GDI I-4 GAS, -inc: auto start/stop system and EcoMode (STD)	\$0.00
	TRANSMISSION: 8-SPEED SELECTSHIFT AUTOMATIC, (STD)	\$0.00
Z2	FROZEN WHITE	\$0.00
*********	STANDARD PAINT	\$0.00
SB	EBONY, VINYL FRONT BUCKET SEATS, -inc: 6-way manual driver seat (fore/aft, up/down & lever recline) and 4-way manual passenger seat (fore/aft & lever recline) w/fold-flat back	\$0.00
***************************************	3.80 AXLE RATIO, (STD)	\$0.00
53T	TRAILER TOW PACKAGE, -inc: trailer tow hitch w/trailer sway control (class 1, 2000 lbs capability, trailer module and 4-pin connector)	\$395.00
87R	KEY FOBS (2 ADDITIONAL)	\$65.00
525	CRUISE CONTROL, -inc: 4-Spoke Steering Wheel, satin chrome shells	\$225.00
76D	LED REAR CARGO AREA LIGHT, -inc: In place of the standard rear cargo area light	\$70.00
100A	ORDER CODE 100A	\$0.00
	SUBTOTAL	\$25,855.00
	Advert/ Adjustments	\$0.00
	Manufacturer Destination Charge	\$1,195.00
	TOTAL PRICE	\$27,050.00
	MPG vay: MPG vay Cruising Range: 0.00 ml	

Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

### Standard Equipment

### **MECHANICAL**

Engine: 2.0L GDI I-4 Gas -inc: auto start/stop system and EcoMode
Transmission: 8-Speed SelectShift Automatic
3.80 Axle Ratio
GVWR: TBD
50-State Emissions System
Transmission w/SelectShift Sequential Shift Control
Front-Wheel Drive
80-Amp/Hr 800CCA Maintenance-Free Battery w/Run Down Protection
150 Amp Alternator
Gas-Pressurized Shock Absorbers
Front And Rear Anti-Roll Bars
Electric Power-Assist Steering
15.8 Gal. Fuel Tank
Single Stainless Steel Exhaust
Strut Front Suspension w/Coll Springs
Torsion Beam Rear Suspension w/Coil Springs
4-Wheel Disc Brakes w/4-Wheel ABS, Front Vented Discs, Brake Assist and Hill Hold Control

### **EXTERIOR**

Wheels: 16" Spar	kle Silver-Painted Steel -inc: full wheel covers (non-locking lug nuts
Tires: 215/55R16	97H XL AS
Steel Spare Whee	el
Full-Size Spare T	ire Stored Underbody w/Crankdown
Clearcoat Paint	
Black Front Bump	per
Black Rear Bump	er
Black Bodyside N	loldings :
Black Side Windo	ws Trim and Black Front Windshield Trim
Black Door Hand	es
Black Manual Sid	e Mirrors w/Convex Spotter and Manual Folding
Light Tinted Glass	5
Variable Intermitte	ent Wipers
Fully Galvanized	Steel Panels
Black Grille	
Sliding Rear Doo	75
Split Swing-Out F	Rear Cargo Access
Tallgate/Rear Dod	or Lock Included w/Power Door Locks
Aero-Composite	Halogen Daytime Running Headlamps
Perimeter/Approa	ach Lights

#### **ENTERTAINMENT**

Radio: AM/FM w/Bluetooth -inc: FordPass connect, 4.2" LCD multi-function display (MFD) screen, 1 USB port and 4 front speakers (2 front door speakers and 2 a-pillar tweeters)

Radio w/Seek-Scan, Clock, Speed Compensated Volume Control, Aux Audio Input Jack, Steering Wheel Controls, Radio Data System and External Memory Control

Streaming Audio

Integrated Roof Antenna

#### INTERIOR

Manual Tilt/Telescoping Steering Column

Gauges -inc: Speedometer, Odometer, Engine Coolant Temp, Tachometer, Trip Odometer and Trip Computer

FordPass Connect Mobile Hotspot Internet Access

Front Cupholder

Remote Keyless Entry w/Integrated Key Transmitter and Illuminated Entry

Manual Alr Conditioning

Glove Box

**Driver Foot Rest** 

Front Cloth Headliner

Cloth Door Trim Insert

Urethane Gear Shift Knob

Vinyl Front Bucket Seats -inc: 6-way manual driver seat (fore/aft, up/down & lever recline) and 4-way manual passenger seat (fore/aft & lever recline) w/fold-flat back

Full Floor Console w/Storage, Full Overhead Console w/Storage and 2 12V DC Power Outlets

Delay Off Interior Lighting

Front Only Vinyl/Rubber Floor Covering

Vinyt/Rubber Floor Trim

Cargo Space Lights

FOB Controls -inc: Remote Engine Start

Driver And Passenger Door Bins

Power 1st Row Windows w/Driver 1-Touch Down

Delayed Accessory Power

Power Door Locks w/Autolock Feature

Systems Monitor

Redundant Digital Speedometer

Trip Computer

Outside Temp Gauge

Analog Display

Seats w/Vinyl Back Material

Manual Adjustable Front Head Restraints

Front Center Armrest w/Storage

Securilock Anti-Theft Ignition (pats) Engine Immobilizer

2 12V DC Power Outlets

### SAFETY

Advancetrac w/Roll Stability Control Electronic Stability Control (ESC) And Roll Stability Control (RSC
ABS And Driveline Traction Control
Side Impact Beams
Dual Stage Driver And Passenger Seat-Mounted Side Airbags
Automatic Emergency Braking Forward Collision
Low Tire Pressure Warning
Dual Stage Driver And Passenger Front Airbags
Safety Canopy System Curtain 1st Row Airbags
Airbag Occupancy Sensor
Outboard Front Lap And Shoulder Safety Belts -inc: Height Adjusters and Pretensioners
Back-Up Camera



### 11564 E Washington Blvd Whittier CA 90606-

Phone (562) 695-7477 Fax (562) 699-0992

Quote: 290682

**Quote Date: 7/9/2018** 

**QUOTE TO: BOB WONDRIES FORD** 400 S. ATLANTIC BLVD

SHIP TO: NATIONAL CITY

ALHAMBRA, CA 91801-

TONY GAUT 6198665336

1726 WILSON AVE

TOTAL:

\$1,556.24

Ph: 626-289-3591

FAX: 626-284-7052

NATIONAL CITY, CA 91950-

ACCT #:	P.O.#/CUST. ORDER #:	ORDER DATE:	TERMS:	DATE SHIPPED:	VIA:
201499			Pay Upon Receipt		

Quanity:	Part Number:	Description:	Price:	Total:
1	PARTC	COMPOSITE PARTITION W/WINDOW	\$769.08	\$769.08
2	84427-A	RECTANGULAR LED DOME 530 LUMEN	\$24.58	\$49.16
1	RKSBRED	ROUND TOGGLE SWITCH/ILLUMINATED	\$5.00	\$5.00
1	PDI	PDI VEHICLE SEE LABOR	\$0.00	\$0.00

VIN:	SUBTOTAL;		\$823.24	
	TAX:	9.5000%	\$0.00	
PRICING ONLY GOOD FOR 36 DAYS FROM DATE OF QUOTE	LABOR:		\$358.00	
THIS IS NOT AN INVOICE - DO NOT PAY FROM THIS QUOTE	FREIGH	T:	\$375.00	
		PRICING ONLY GOOD FOR 36 DAYS FROM DATE OF QUOTE LABOR: FREIGH	VIN:  SUBTOTAL:  TAX: 9.5000%  PRICING ONLY GOOD FOR 36 DAYS FROM DATE OF QUOTE  LABOR:  FREIGHT:	

Customer Approval:	and a subject to the use assumed argument attent of the light of the l			
Representative	Signature:	Date:	SX98037902 (Tax ID #)	
Represent	ative Name:	PO:	( i con to m)	
	Title:(Full)	VIN:	######################################	

#### FORM E

### CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 120716-NAF

NJPA Authorized Signatures:

Proposer's full legal name: 72 Hour LLC, aba National Auto Fleet Group

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be January 17, 2017 and will expire on January 17, 2021 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA DIRECTOR OF COOPERATOR CONTRACTS AND PROCUREMENTOPO SIGNATURE	Jeremy Schwartz (NAME PRINTED OR TYPED)	
NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE	Chad Coauette (NAME PRINTED OR TYPED)	
Awarded on January 14, 2017	NJPA Contract # 120716-NAF	
Vendor Authorized Signatures:		
The Vendor hereby accepts this Contract award, Inc.  Vendor Name 72 Hoch 14C, Nay)		
Authorized Signatory's Title #1867	JESSE coolet	
Executed on 1-16, 2017	(NAME PRINTED OR TYPED)  NJPA Contract # 120716-NAF	

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY WAIVING THE FORMAL BID PROCESS PURSUANT TO NATIONAL CITY MUNICIPAL CODE SECTION 2.60.260 REGARDING COOPERATIVE PURCHASING AND AUTHORIZING THE CITY TO PIGGYBACK ONTO NATIONAL JOINT POWERS ALLIANCE CONTRACT NO. 120716-NAF TO AWARD THE PURCHASE AND BUILD-OUT OF TWO (2) 2019 FORD TRANSIT CONNECT VANS (S7E) XL LWB TO NATIONAL AUTO FLEET GROUP IN AN AMOUNT NOT TO EXCEED \$58,506.68 FOR THE ENGINEERING AND PUBLIC WORKS FACILITIES MAINTENANCE DIVISION

WHEREAS, as part of the Fiscal Year 2019 annual budget, the City Council approved funding through the Equipment Replacement Reserve for the purchase of two (2) utility vans for the Engineering and Public Works Facilities Maintenance Division; and

WHEREAS, there is an opportunity to piggyback National Joint Powers Alliance (NJPA) Contract No. 1207-16-NAF with National Auto Fleet Group to award the purchase and build-out of two (2) utility vans to National Auto Fleet Group in an amount not to exceed \$58,506.68; and

WHEREAS, National City Municipal Code Section 2.60.260 provides authority to the purchasing agent to join with other public jurisdictions to take advantage of cooperative purchasing opportunities, including but not limited to any federal, state or local agency pricing program or structure that is determined by the purchasing agent to allow a procurement that is in the best interests of the City. The purchasing agent may buy directly from a vendor at a price established through competitive bidding by another public agency whose procedures have been determined by the purchasing agent to be in substantial compliance with the City's procurement procedures, irrespective of the contracting limits of that jurisdiction or agency, even if the City had not initially joined with that public agency in the cooperative purchase; and

WHEREAS, National City's purchasing staff has confirmed that National Joint Powers Alliance Contract No. 120716-NAF with National Auto Fleet Group was competitively bid through a Request for Bid (RFB) and bid process, and that the respective procurement procedures are in substantial compliance with those of National City.

NOW, THEREFORE, BE IT that the City Council of the City of National City hereby affirms the determination that the State of California's procurement procedures are in substantial compliance with the City's, and pursuant to Section 2.60.260 of the Municipal Code, authorizes the waiver of the formal bid process consistent with National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizes the City to piggyback National Joint Powers Alliance Contract No. 120716-NAF to award the purchase and build-out of two (2) 2019 Ford Transit Connect Vans (S7E) XL LWB to National Auto Fleet Group in an amount not to exceed \$58,506.68 for the Engineering and Public Works Facilities Maintenance Division.

[Signature Page to Follow]

Resolution	No.	2018	_
Page Two			

### PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City authorizing the installation of 25 feet of additional red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard (TSC No. 2018-12). (Engineering/Public Works)

### CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

AGENDA ITEM NO. MEETING DATE: July 24, 2018 ITEM TITLE: Resolution of the City Council of the City of National City authorizing the installation of 25 feet of additional red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard (TSC No. 2018-12). **DEPARTMENT:** Engineering/Public Works PREPARED BY: Luca Zappiello, Junior Engineer – Civil APPROVED BY: PHONE: 619-336-4360 My () Harginielle **EXPLANATION:** See attached. **Finance** APPROVED: FINANCIAL STATEMENT: MIS APPROVED: ACCOUNT NO. N/A **ENVIRONMENTAL REVIEW:** N/A FINAL ADOPTION: ORDINANCE: INTRODUCTION:

### STAFF RECOMMENDATION:

Adopt Resolution authorizing the installation of 25 feet of additional red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard.

### **BOARD / COMMISSION RECOMMENDATION:**

At their meeting on June 20, 2018, the Traffic Safety Committee approved staff's recommendation to install 25 feet of additional red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard.

### ATTACHMENTS:

- 1. Explanation w/ Exhibit
- 2. Staff Report to the Traffic Safety Committee on June 20, 2018 (TSC No. 2018-12)
- 3. Resolution

#### **EXPLANATION**

Mr. Luis Natividad, National City resident, has expressed concerns regarding the congestion of vehicles on "L" Avenue at the intersection with E. Plaza Boulevard. Mr. Natividad stated that vehicles traveling southbound on "L" Avenue are unable to utilize the right turn lane at the intersection due to vehicles being parked on the west side of "L" Avenue. Mr. Natividad indicated that this condition creates congestion on "L" Avenue since vehicles turning right must wait until traffic has passed through the intersection. Mr. Natividad stated that the extension of the existing red curb "No Parking" on the west side of "L" Avenue would reduce congestion on "L" Avenue and provide better flow of traffic at the intersection.

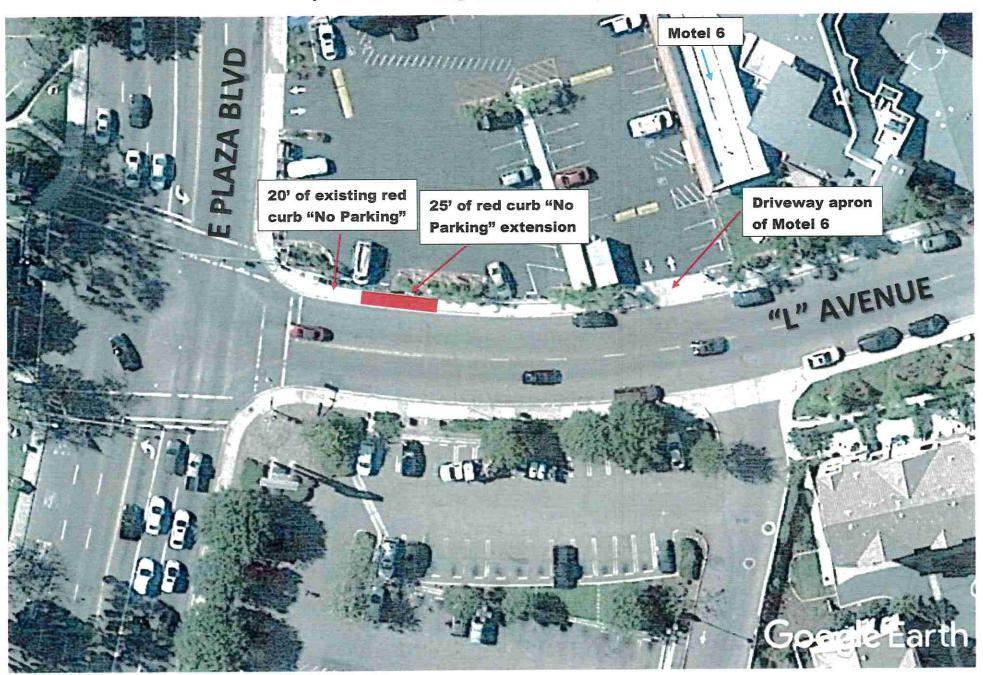
Staff performed a site evaluation. "L" Avenue is a 2-lane roadway with parallel parking on both sides of the street. The intersection of E. Plaza Boulevard and "L" Avenue is controlled by a traffic signal. Staff confirmed that there is 20 feet of existing red curb "No Parking" on the west side of "L" Avenue, north of E Plaza Boulevard. There is approximately 106 feet of unrestricted parking for five standard-sized vehicles on the west side of "L" Avenue, north of E. Plaza Boulevard between the end of the red curb "No Parking" at the intersection and the driveway apron of Motel 6. Staff recommends the extension of the existing 20 feet of red curb by 25 feet, for a total of 45 feet in order to reduce congestion at the intersection and provide better flow of traffic at the intersection. This would result in the loss of one on-street parking space.

Staff sent notices to area property owners, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions.

This item was presented to the Traffic Safety Committee on June 20, 2018. Mr. Natividad was in attendance and spoke in support of the extension of the red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard. Staff presented the results of the site evaluation and after discussion, the Traffic Safety Committee voted to approve staff's recommendation to extend 25 feet of existing red curb "No Parking" on the west side of "L" Avenue, north of E. Plaza Boulevard

If approved by City Council, all work will be performed by City Public Works.

### **Location Map with Existing Conditions (TSC Item: 2018-12)**



### NATIONAL CITY TRAFFIC SAFETY COMMITTEE AGENDA REPORT FOR JUNE 20, 2018

ITEM NO. 2018-12

ITEM TITLE:

REQUEST TO EXTEND 25 FEET OF EXISTING RED CURB "NO

PARKING" ON THE WEST SIDE OF "L" AVENUE, NORTH OF E

PLAZA BOULEVARD

PREPARED BY:

Luca Zappiello, Junior Engineer - Civil Engineering & Public Works Department

#### **DISCUSSION:**

Mr. Luis Natividad, Senior Community Advisor for Office of Council President Myrtle Cole, Fourth District of San Diego, has expressed concerns regarding the congestion of vehicles on "L" Avenue at the intersection with E Plaza Boulevard. Mr. Natividad stated that vehicles traveling southbound on "L" Avenue are unable to utilize the right turn lane at the intersection due to vehicles being parked on the west side of "L" Avenue. Mr. Natividad indicated that this condition creates congestion on "L" Avenue since vehicles turning right must wait until traffic has passed through the intersection. Mr. Natividad stated that the extension of the existing red curb "No Parking" on the west side of "L" Avenue would reduce congestion on "L" Avenue and provide better flow of traffic at the intersection.

Staff performed a site evaluation. "L" Avenue is a 2-lane roadway with parallel parking on both sides of the street. The intersection between E Plaza Boulevard and "L" Avenue is controlled by a traffic light. Staff confirmed that there are 20 feet of existing red curb "No Parking" on the west side of "L" Avenue, north of E Plaza Boulevard. There are approximately 106 feet of unrestricted parking for five (5) standard-sized vehicles on the west side of "L" Avenue, north of E Plaza Boulevard between the end of the red curb "No Parking" at the intersection and the driveway apron of "Hotel 5". Staff recommends the extension of the existing 20 feet of red curb by 25 feet, for a total of 45 feet in order to reduce congestion at the intersection and provide better flow of traffic at the intersection.

Staff sent notices to area property owners, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions.

#### STAFF RECOMMENDATION:

Based on an evaluation of existing conditions, staff recommends the extension of the existing 20 feet of red curb by 25 feet on the west side of "L" Avenue, north of E Plaza Boulevard in order to reduce congestion at the intersection. This will result in the loss of one (1) on-street parking space.

If approved by City Council, all work will be performed by City Public Works.

#### **EXHIBITS:**

- Public Request
- 2. Public Notice
- 3. Location Map

4. Photos

2017-12



### **PUBLIC REQUEST FORM**

Address:	
	Email:
Location: West si	de of "L" Avenue, north of E Plaza Blvd
	t to extend the existing red curb on the west side of
"L" Avenue, n	orth of E Plaza Blvd in order to reduce congestion
on L Ave.	
<del></del>	
Attachments: Voc	Z No. Description
Attachments: Yes	✓ No Description:
Attachments: Yes	✓ No Description:
Attachments: Yes	✓ No Description:
Request Received By:	L. ZappielloApril 26, 2018
Request Received By:	L. Zappiello  Date: April 26, 2018  Iter/In-Person Telephone Email Fax Referral:
Request Received By:	L. Zappiello  Date: April 26, 2018  Iter/In-Person Telephone Email Fax Referral:



June 13, 2018

Resident/Property Owner

Subject: TRAFFIC SAFETY COMMITTEE (TSC) ITEM NO. 2018-12

REQUEST TO EXTEND THE EXISTING RED CURB "NO PARKING" AT THE INTERSECTION ON THE WEST SIDE OF "L" AVENUE, NORTH OF E PLAZA BLVD (SEE ATTACHED LOCATION MAP)

Dear Sir/Madame:

The City of National City would like to invite you to our next public Traffic Safety Committee Meeting scheduled for **Wednesday**, **June 20**, **2018**, **at 1:00 P.M**. in the 2<sup>nd</sup> Floor Large Conference Room of the Civic Center Building, 1243 National City Boulevard, to discuss the above-referenced item.

The City Hall is ADA compliance. Please note that there are two disabled persons parking spaces in front of City Hall on the east side of National City that provide direct access on the 2<sup>nd</sup> Floor of City Hall via a pedestrian bridge.

If you have any questions, comments, and/or concerns, please contact the Engineering Department at 619-336-4380 and reference Traffic Safety Committee Item Number 2018-12.

Sincerely,

Stephen Manganiello

typhon 7. Maganiello

City Engineer

SM:lz

Enclosure: Location Map

2018-12

### **Location Map with Existing Conditions (TSC Item: 2018-12)**





Location of proposed red curb "No Parking" on the west side of "L" Avenue (looking north)



Location of proposed red curb "No Parking" on the west side of "L" Avenue (looking west)

#### RESOLUTION NO. 2018 -

## RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE INSTALLATION OF 25 FEET OF ADDITIONAL RED CURB "NO PARKING" ON THE WEST SIDE OF "L" AVENUE, NORTH OF EAST PLAZA BOULEVARD

WHEREAS, a National City resident expressed concerns regarding the congestion of vehicles on "L" Avenue at the intersection with East Plaza Boulevard because vehicles traveling southbound on "L" Avenue are unable to utilize the right turn lane at the intersection due to vehicles being parked on the west side of "L" Avenue creating congestion on "L" Avenue since vehicles turning right must wait until traffic has passed through the intersection; and

WHEREAS, after a site evaluation, staff recommended to the Traffic Safety Committee that the existing 20 feet of red curb "No Parking" on the west side of "L" Avenue, north of East Plaza Boulevard be extended by 25 feet, for a total of 45 feet, to reduce congestion at the intersection and provide better flow of traffic at the intersection; and

WHEREAS, at its meeting on June 20, 2018, the Traffic Safety Committee approved staff's recommendation to extend the existing 20 feet of red curb "No Parking" on the west side of "L" Avenue, north of East Plaza Boulevard, by 25 feet, for a total of 45 feet

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes that the existing 20 feet of red curb "No Parking" on the west side of "L" Avenue, north of East Plaza Boulevard, be extended by 25 feet, for a total of 45 feet, to reduce congestion at the intersection and provide better flow of traffic at the intersection

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City authorizing the installation of Stop Control at various intersections within the neighborhood bounded by E. 1st Street to the north, E. 4th Street to the south, Highland Avenue to the east and "D

### CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

AGENDA ITEM NO. MEETING DATE: July 24, 2018 ITEM TITLE: Resolution of the City Council of the City of National City authorizing the installation of Stop Control at various intersections within the neighborhood bounded by E. 1st Street to the north, E. 4th Street to the south, Highland Avenue to the east and "D" Avenue to the west (TSC No. 2018-13). **DEPARTMENT:** Engineering/Public Works PREPARED BY: Luca Zappiello, Junior Engineer – Civil APPROVED BY: PHONE: 619-336-4360 Styl). Mangamiell **EXPLANATION:** See attached. APPROVED: **Finance** FINANCIAL STATEMENT: APPROVED: ACCOUNT NO. MIS N/A **ENVIRONMENTAL REVIEW:** N/A

### STAFF RECOMMENDATION:

ORDINANCE: INTRODUCTION:

Adopt Resolution authorizing the installation of Stop Control at various intersections within the neighborhood bounded by E. 1st Street to the north, E. 4th Street to the south, Highland Avenue to the east and "D" Avenue to the west.

FINAL ADOPTION:

### **BOARD / COMMISSION RECOMMENDATION:**

At their meeting on June 20, 2018, the Traffic Safety Committee approved staff's recommendation to install Stop Control at various intersections within the neighborhood bounded by E. 1st St to the north, E. 4th St to the south, Highland Ave to the east and "D" Ave to the west.

### ATTACHMENTS:

- 1. Explanation w/ Exhibit, ADT Counts and Traffic Collision History
- 2. Staff Report to the Traffic Safety Committee on June 20, 2018 (TSC No. 2018-13)
- 3. Resolution

### **EXPLANATION**

Several area residents contacted Engineering staff expressing safety concerns regarding the intersection at E. 2nd Street and "F" Avenue, citing one accident that occurred within the past few months. Area residents stated that many drivers ignore the Yield control signs installed on "F" Avenue (minor street) and they drive through the intersection without stopping and/or paying attention to the vehicles driving on E. 2nd Street (through street).

Staff performed a site evaluation. E. 2nd Street and "F" Avenue are two-lane local roadways with prima facie speed limits of 25 mph and unrestricted parallel parking on both sides of the streets. Staff confirmed that the intersection of E. 2nd Street and "F" Avenue is controlled by Yield signs on "F" Avenue (minor street).

Engineering staff authorized Kimley-Horn & Associates to commission 48-hour Average Daily Traffic (ADT) counts on E. 2nd Street and "F" Avenue near the intersection. The ADT counts determine if the two streets have similar operating characteristics to warrant the installation of All-Way Stop control based on the guidelines provided in the California Manual on Uniform Traffic Control Devices. The ADT counts were performed during the first week of June 2018 and are attached to this report.

Staff also reviewed the traffic collision history for this intersection, which confirmed that there were three "reported" traffic collisions within the past four years. The NCPD report shows that two crashes at the intersection were caused by failure to yield the right-of-way (CVC 21803A). See attachment traffic collision summary table.

This item was presented to the Traffic Safety Committee on June 20, 2018. Staff sent notices to area property owners and tenants, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions. There were no members of the community present to speak on the item.

Staff presented the results of the ADT counts which indicate that at the intersection, the two streets have similar traffic volume and operating characteristics to warrant All-Way Stop control. Staff also presented the results of the traffic collision history provided by the National City Police Department (NCPD) Records Division which indicate that within the past four years, two collisions were caused by a failure to obey the Yield signs. Based on these findings, staff recommends replacing Two-Way Yield Control with All-Way Stop Control at the intersection of E. 2nd Street and "F" Avenue.

Staff also recommends replacing Yield Control with Stop Control for the minor street approaches at the following nearby "T" intersections: E. 1<sup>st</sup> Street and "F" Avenue, E. 2<sup>nd</sup> Street and "E" Avenue and E. 2<sup>nd</sup> Street and "G" Avenue. Stop control is more appropriate for the minor approach to "T" intersections.

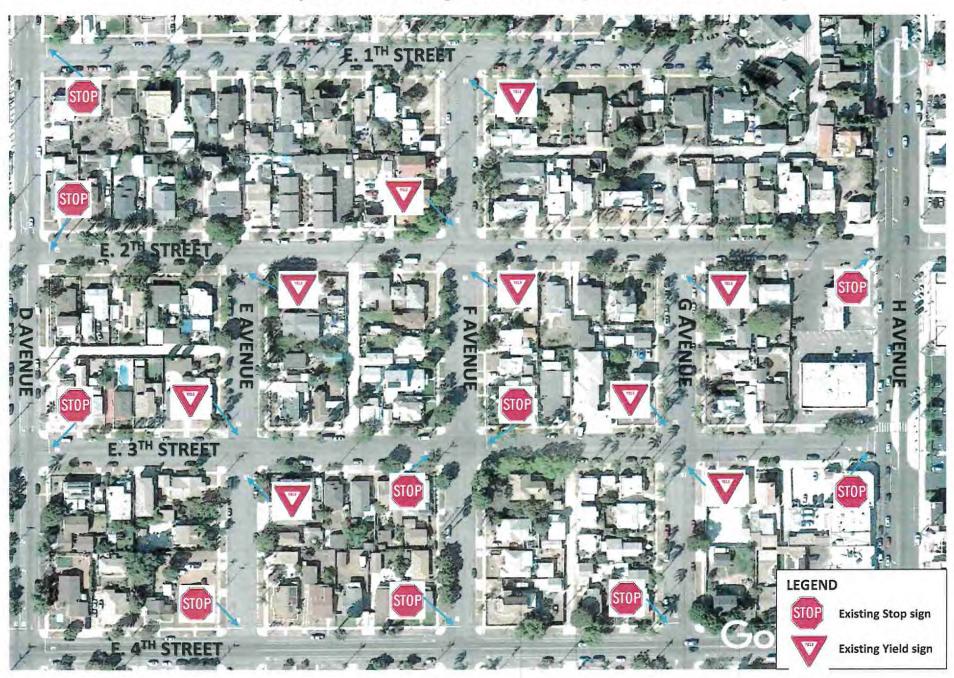
In addition, staff also recommends replacing Yield Control with Stop Control at the intersections of E. 3<sup>rd</sup> Street and "E" Avenue and E. 3<sup>rd</sup> Street and "G" Avenue to provide consistency with other nearby intersections that have similar operating characteristics.

The Traffic Safety Committee approved staff's recommendations for the following traffic safety enhancements in the neighborhood bounded by E. 1st Street to the north, E. 4th Street to the south, Highland Avenue to the east and "D" Avenue to the west:

- 1. Install All-Way Stop control at the intersection of "F" Avenue and E. 2nd Street;
- 2. Install Stop control for the northbound "F" Avenue approach (minor street) to the intersection with E. 1st Street (through street);
- 3. Install Stop control for the northbound "E" Avenue approach (minor street) to the intersection with E. 2nd Street (through street);
- 4. Install Stop control for the northbound "G" Avenue approach (minor street) to the intersection with E. 2nd Street (through street);
- 5. Install Stop control for the northbound and southbound "E" Avenue approaches (minor street) to the intersection with E. 3rd Street (through street);
- 6. Install Stop control for the northbound and southbound "G" Avenue approaches (minor street) to the intersection with E. 3rd Street (through street);

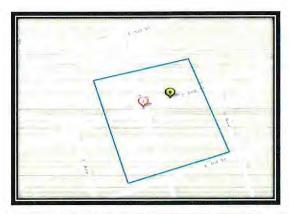
If approved by City Council, all work will be performed by City Public Works.

### Location Map with Existing Conditions (TSC Item: 2018-13)



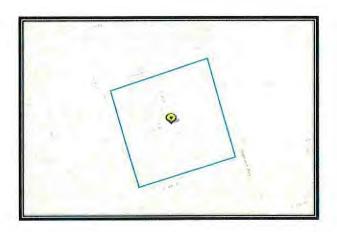
### **Traffic Collision History (NCPD Records Division)**

From June 1, 2014 – June 1, 2018, there were 3 traffic collisions at the intersection of E. 2<sup>nd</sup> Street & "F" Avenue.



AGENCY	ACTIVITY NUMBER	DATE - ACTIVITY	VIOLATION CODE	VIOLATION DESCRIPTION	ADDRESS	BEAT	INJURY FLAG	NUMBER INJURED		RUN FLAG	HIT & RUN LEVEL	PEDESTRIAN RELATED	CHARGE LEVEL
NATIONAL CITY	1605505	10/3/2016 9:32	VC 21800(D)(1)	APPROACHING INTERSECTION WITH INOPERATIVE SIGNALS.	E02ND STREET & F AVENUE, NC,	NATIONAL CITY-020	N	0	0	N		N	INFRACTION
NATIONAL CITY	1703962	7/26/2017 6:39	VC 21803A	RIGHT-OF-WAY:FROM YIELD INTERSECTION (I)	E02ND STREET & F AVENUE, NC, 91950	NATIONAL CITY - 020	Y	1	0	N		N	INFRACTION
NATIONAL CITY	1802294	5/7/2018 20:20	VC 21803A	RIGHT-OF-WAY:FROM YIELD INTERSECTION (I)	E01ND STREET & F AVENUE, NC, 91950	NATIONAL CITY-020	Y	2	0	N		N	INFRACTION

From June 1, 2014 – June 1, 2018, there were 1 traffic collisions at the intersection of E. 3<sup>rd</sup> Street & "G" Avenue.



AGENCY	ACTIVITY NUMBER	DATE - ACTIVITY	VIOLATION CODE	VIOLATION DESCRIPTION	ADDRESS	BEAT	INJURY FLAG	NUMBER INJURED	NUMBER KILLED	HIT & RUN FLAG	HIT & RUN LEVEL	PEDESTRIAN RELATED	CHARGE LEVEL
NATIONAL CITY	1600942	2/17/2016 16:57	VC 21803A	YIELD SIGNS, YIELD UNTIL REASONABLY SAFE	E03RD STREET & G AVENUE, NC,	NATIONAL CITY-020	Y	2	0	N		N	INFRACTION
					2,00								

Volumes for: Monday, June 04, 2018 City: National City Project# 18-1267-001

Location: E. 2nd St. east of F Ave.

### DAY 1

AM Period NB	SB EB		WB			PM Period	NB	SB		EB		WB		
00:00	0		0			12:00				2		3		
00:15	1		0			12;15				4		4		
00:30	2		0			12:30				3		3		
00:45	1	4	0	0	4	12:45				2	11	2	12	23
01:00	0		1			13:00				4		5		
01:15	0		1			13:15				2		2		
01:30	0		0			13:30				1		3		
01:45	0	0	0	2	2	13:45				4	11	6	16	27
02:00	0		0			14:00				3		3		
02:15	1		0			14:15				2		2		
02:30	0		0			14:30				1		5		
02:45	1	2	0	0	2	14:45				2	8	2	12	20
03:00	1		1			15:00				4		3		
03:15	1		0			15:15				3		7		
03:30	0		1			15:30				2		4		
03:45	0	2	0	2	4	15:45				5	14	3	17	31
04:00	0		0			16:00				2		6		
04:00	0		0			16:15				3		4		
	0		1			16:30				1		6		
04:30 04:45	0	0	2	3	3	16:45				1	7	7	23	30
	2	. 0	0	3		17:00				2		8	2.0	30
05:00			0											
05:15	0					17:15				2		5		
05:30	0	2	0	0	2	17:30 17:45				2	9	9	28	37
05:45				0							9		20	3/
06:00	1		1			18:00				5		10		
06:15	3		0			18:15				2		7		
06:30	2	7	0			18:30				3	14	4	74	20
06:45	1			1	8	18:45					14		24	38
07:00	2		1			19:00				3		6		
07:15	3		3			19:15				2		3		
07:30	2	12	2	-	10	19:30				5	13	5	22	24
07:45	5	12	1	7	19	19:45					12	8	22	34
08:00	2		1			20:00				3		1		
08:15	3		0			20:15				2		1		
08:30	6		1	-	-	20:30				1	-	0		
08:45	3	14	1	3	17	20:45				0	6	1	3	9
09:00	7		0			21:00				0		0		
09:15	4		1			21:15				1		0		
09:30	3		0			21:30				3		0		
09:45	6	20	0	1	21	21:45				2	6	0	0	6
10:00	3		1			22:00				0		1.		
10:15	5		2			22:15				0		0		
10:30	2		1			22:30				1		0		
10:45	3	13	1	5	18	22:45				0	1	0	1	2
11:00	4		2			23:00				1		0		
11:15	3		1			23:15				2		0		
11:30	2		3			23:30				1		0		
11:45	5	14	2	8	22	23:45				0	4	1	1	5
Total Vol.		90		32	122						103		159	262
	SUSTINEDE NON TRANS	30		JŁ								-1-	135	202
PS Coordinates:	32.682882, -117.102385						4	NB	SB	D	aily Tot EB	als	WB	Combine
							_	10	30					
		AM									193 PM		191	384

PM AM Split % 73.8% 26.2% 31.8% 39.3% 60.7% 68.2% Peak Hour 08:30 11:30 11:45 15:00 17:30 17:30 14 0.70 44 0.73 Volume 20 12 26 0.75 0.81 P.H.F. 0.71 0.80

Volumes for: Tuesday, June 05, 2018 City: National City Project# 18-1267-001

Location: E. 2nd St. east of F Ave.

### DAY 2

AM Period 1	NB SB	EB		WB			PM Period	NB	SI	3	EB		WB		
00:00		0		1			12:00				2		4		
00:15		0		1			12:15				1		3		
00:30		0		0			12:30				2		2		
00:45		0	0	0	2	2	12:45				4	9	1	10	19
01:00		1		0			13:00				3		2		
01:15		0		0			13:15				5		2		
01:30		0		0			13:30				2		1		
01:45		0	1	0	0	1	13:45				3	13	2	7	20
02:00		0		0			14:00				4		4		
02:15		1		0			14:15				3		3		
02:30		0		0			14:30				2		2		
02:45		0	1	1	1	2	14:45				2	11	5	14	25
03:00		0		0			15:00				5		2		
03:15		0		0			15:15				2		3		
03:30		1		0			15:30				3		6		
		0	1	1	1	2	15:45				4	14	3	14	28
03:45			1		1	-						1.4		17	20
04:00		0		0			16:00				3		7		
04:15		1		1			16:15				2		4		
04:30		0	3	2		-6-	16:30				1		3	49	25
04:45		0	1	1	4	5	16:45				2	8	3	17	25
05:00		0		0			17:00				3		6		
05:15		2		1			17:15				2		3		
05:30		1		3			17:30				5		5		
05:45		3	6	0	4	10	17:45				2	12	4	18	30
06:00		2		0			18:00				3		6		
06:15		1		0			18:15				2		3		
06:30		2		1			18:30				1		7		
06:45		3	8	0	1	9	18:45				2	8	4	20	28
07:00		2		1			19:00				3		3		
07:15		5		2			19:15				2		6		
07:30		2		1			19:30				0		3		
07:45		3	12	0	4	16	19:45				0	5	2	14	19
08:00		2		1			20:00				1		5		
08:15		5		3			20:15				1		5		
08:30		2		2			20:30				0		3		
08:45		4	13	0	6	19	20:45				0	2	2	15	17
		7	10	1							1			- 10	
09:00							21:00						1 0		
09:15		4		2			21:15				0				
09:30			20	1	0	20	21:30						1	7	3
09:45		6	20	4	8	28	21:45				0	1	0	2	3
10:00		3		1			22:00				1		0		
10:15		5		2			22:15				0		0		
10:30		2	45	4		25	22:30				0	4	0		
10:45		5	15	3	10	25	22:45				0	1	0	0	1
11:00		5		2			23:00				0		1		
11:15		3		2			23:15				1		0		
11:30		6		3			23:30				0		0		
11:45		7	21	2	9	30	23:45				0	1	0	1	2
Total Vol.			99		50	149						85		132	217
PS Coordinates:	32.682882, -117.102385		33		50	145			NB	SB	t	Daily Tot EB	tals	WB	Combined
									THE .	50		184		182	366
			M		12571.01							PM		46.551	<b>#0</b>
Split %			66.4%	Lie-		40.7%	i e	-				39.2%	Ú.	60.8%	59.3%
			11:00		11:30	11:00						12:30		15:30	15:30
Peak Hour															
Peak Hour Volume P.H.F.			21 0.75		12 0.75	30 0.83						14 0.70		20 0.71	32 0.80

Volumes for:

&

City: National City

Project# 18-1267-001

Monday, June 04, 2018 Tuesday, June 05, 2018 Location: E. 2nd St. east of F Ave.

### 2-DAY AVERAGE

AM Period	NB		SB		EB		WB			PM Period	NB		SB		EB		WB		
00:00	0		0		0		1			12:00	0		0		2		4		
00:15	0		0		1		1			12:15	0		0		3		4		
00:30	0		0		1		0			12:30	0		0		3		3		
00:45	0	0	0	0	1	2	0	1	3	12:45	0	0	0	0	3	10	2	11	21
01:00	0		0		1		1			13:00	0		0		4		4		
01:15	0		0		0		1			13:15	0		0		4		2		
01:30	0		0		0		0			13:30	0		0		2		2		
	0	0	0	0	0	1	0	1	2	13:45	0	0	0	0	4	12	4	12	24
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02:00	0		0		0		0			14:00	0		0		4		4		
02:15	0		0		1		0			14:15	0		0		3		3		
02:30	0		0		0		0			14:30	0		0		2		4		
02:45	0	0	0	0	1	2	1	1	2	14:45	0	0	0	0	2	10	4	13	23
03:00	0		0		1		1			15:00	0		0		5		3		
03:15	0		0		1		0			15:15	0		0		3		5		
03:30	0		0		1		1			15:30	0		0		3		5		
03:45	0	0	0	0	0	2	1	2	3	15:45	0	0	0	0	5	14	3	16	30
04:00	0		0		0		0			16:00	0		0		3		7		
			0		1		1			16:00	0		0		3		4		
04:15	0												0				5		
04:30	0		0	^	0	4	2	A		16:30	0	•		0	1	0		20	20
04:45	0	0	0	0	0	1	2	4	4	16:45	0	0	0	0	2	8	5	20	28
05:00	0		0		1		0			17:00	0		0		3		7		
05:15	0		0		1		1			17:15	0		0		2		4		
05:30	0		0		1		2			17:30	0		0		4		7		
05:45	0	0	0	0	2	4	0	2	6	17:45	0	0	0	0	2	11	5	23	34
06:00	0		0		2		1			18:00	0		0		4		8		
06:15	0		0		2		0			18:15	0		0		2		5		
06:30	0		0		2		1			18:30	0		0		2		6		
06:45	0	0	0	0	2	8	0	1	9	18:45	0	0	0	0	3	11	4	22	33
AT PERSON		U		U		0		1	3			U		U		11		- 44	33
07:00	0		0		2		1			19:00	0		0		3		5		
07:15	0		0		4		3			19:15	0		0		2		5		
07:30	0		0		2		2			19:30	0		0		3		4		
07:45	0	0	0	0	4	12	1	6	18	19:45	0	0	0	0	1	9	5	18	27
08:00	0		0		2		1			20:00	0		0		2		3		
08:15	0		0		4		2			20:15	0		0		2		3		
08:30	0		0		4		2			20:30	0		0		1		2		
08:45	0	0	0	0	4	14	1	5	18	20:45	0	0	0	0	0	4	2	9	13
09:00	0		0		7		1			21:00	0		0		1		1		
	0		0		4		2			21:15	0		0		1		0		
09:15													0		2				
09:30	0		0		3	20	1	r	25	21:30	0	0		0		4	1	4	r
09:45	0	0	0	0	6	20	2	5	25	21:45	0	0	0	0	1	4	0	1	5
10:00	0		0		3		1			22:00	0		0		1		1		
10:15	0		0		5		2			22:15	0		0		0		0		
10:30	0		0		2		3			22:30	0		0		1		0		
10:45	0	0	0	0	4	14	2	8	22	22:45	0	0	0	0	0	1	0	1	.2
11:00	0		0		5		2			23:00	0		0		1		1		
11:15	0		0		3		2			23:15	0		0		2		0		
11:30	0		0		4		3			23:30	0		0		1		0		
11:45	0	0	0	0	6	18	2	9	26	23:45	0	0	0	0	0	3	1	1	4
11.45	- 0	V	U	0	0	10	4		20	23.13	u	u	U	U		-	-		-
Total Vol.						95		41	136							94		146	240
SPS Coordinate	s.		32,682882,	-117.1023	185										D	aily Tot	als		
or o occidinate	J.		,2,00,2002,	-117,1102	10.5							NB		SB	-	,			Combine
																189		187	375
						B.A												107	3/3
0-12-61					A	M.		20.22	20 40	-			_		-	PM		CD 001	67.00
Split %	-					69.7%		30.3%	36.1%							39.2%		60.8%	63.9%
Peak Hour						09:00		11:30	11:30							15:00		17:30	17:30
Volume						20		12	27							14		25	37

Volumes for: Monday, June 04, 2018

City: National City

Project# 18-1267-002

Location: F Ave. south of E. 2nd St.

### DAY 1

00:00 2 00:15 0 00:30 0 00:45 1 01:00 1 01:15 0 01:30 0	3	0 0 0 0	0				12:00 12:15	1		3				
00:30 0 00:45 1 01:00 1 01:15 0 01:30 0		0 0 1	0				12:15	-		-				
00:45 1 01:00 1 01:15 0 01:30 0		0	0					2		3				
01:00 1 01:15 0 01:30 0		1	0				12:30	5		2				
01:15 0 01:30 0						3	12:45	2	10	1	9			19
01:15 0 01:30 0		•			~		13:00	3		3				
		0					13:15	2		3				
150 NE	4	0					13:30	1		3				
01:45 0	1	0	1			2	13:45	1	7	2	11			18
02:00 0		0					14:00	2		3				
02:15 0		0					14:15	1		1				
02:30 0		0					14:30	2		2				
02:45 0	0	0	0				14:45	2	7	3	9			16
03:00 0		0					15:00	2		5				
03:15 0		0					15:15	4		3				
03:30 0		0					15:30	3		2				
03:45 1	1	0	0			1	15:45	1	10	1	11			21
04:00 0		0					16:00	3		1				
04:15 0		0					16:15	4		3				
04:30 1		0					16:30	6		2				
04:45 1	2	1	1			3	16:45	3	16	3	9			25
			-		-			5	10	3	-			25
05:00 1		0					17:00							
05:15 1		0					17:15	5		2				
05:30 1		0	0				17:30	5	17	2	10			27
05:45 1	4	0	0			4	17:45	2	17		10			27
06:00 1		1					18:00	4		1				
06:15 1		0					18:15	1		2				
06:30 1	_	0	4				18:30	0		2				10
06:45 2	5	0	1			6	18:45	1	6	1	6			12
07:00 2		1			-		19:00	3		2				
07:15 0		3					19:15	2		3				
07:30 5		1					19:30	1	4	5	15			
07:45 2	9	1	6			15	19:45	0	6	3	13			19
08:00 7		4					20:00	1		3				
08:15 3		3					20:15	2		1				
08:30 5		5					20:30	1		2				
08:45 4	19	3	15			34	20:45	0	4	4	10			14
09:00 1		1					21:00	0		1				
09:15 0		1					21:15	0		0				
09:30 1		1					21:30	0		0				
09:45 1	3	1	4			7	21:45	1	1	1	2			3
10:00 2		3					22:00	1		1				
10:15 1		1					22:15	2		0				
10:30 1		2					22:30	1		1				
10:45 3	7	1	7			14	22:45	0	4	0	2			6
11:00 1		5					23:00	0		0				
11:15 2		2					23:15	1		1				
11:30 0		2					23:30	0		1				
11:45 4	7	2	11			18	23:45	1	2	0	2			4
Total Vol.	61		46			107			90		94			184
GPS Coordinates:	32	2.682380, -	117,10264	)					NB		SB	Daily Totals EB	WB	Combined
									151		140	<del>-</del> -		291
				AM								PM		
Split %	57.0%	)	43.0%			36.8%	0		48.9%		51.1%			63.2%
Peak Hour	08:00		08:00			08:00			16:30		19:15			16:15
Volume	19		15			34			19		14			29
P.H.F.	0.68		0.75			0.77			0.79		0.70			0.91

Volumes for: Tuesday, June 05, 2018 City: National City Project# 18-1267-002

Location: F Ave. south of E. 2nd St.

### DAY 2

AM Period	NB		SB	EE	3	WB	PM Period	NB		SB		EB WB		
00:00	0		0				12:00	2		2				
00:15	1		0				12:15	3		3				
00:30	1		0				12:30	0		4				
00:45	0	2	0	0		2	12:45	0	5	1 1	0			15
01:00	2		0				13:00	2		1				
01:15	0		0				13:15	2		2				
01:30	0		0				13:30	2		1				
01:45	0	2	0	0		2	13:45	1	7	2 6	5			13
02:00	0		0				14:00	4		1				
02:15	0		0				14:15	3		3				
02:30	0		0				14:30	2		4				
02:45	1	1	0	0		1	14:45	4	13	4 1	2			25
03:00	0		0				15:00	9		3				
03:15	0		0				15:15	5		6				
03:30	0		0				15:30	4		4				
03:45	0	0	0	0			15:45	1	19	5 1	8			37
04:00	0		1				16:00	2		2				
04:00	0		0				16:15	5		2				
04:15	0		0				16:15	2		5				
04:45	2	2	0	1		3	16:45	4	13	3 1	2			25
				•					13	4	-			23
05:00	1		0				17:00 17:15	0						
05:15	0		0					5		2				
05:30	1	2	1				17:30	1	8	1 1	2			20
05:45	1	3		1		4	17:45		8		2		_	20
06:00	0		1				18:00	5		4				
06:15	1		1				18:15	3		1				
06:30	3	2	1				18:30	1		4				10
06:45	1	5	1	4		9	18:45	0	9	1 1	0			19
07:00	7		1				19:00	1		2				
07:15	4		2				19:15	2		1				
07:30	0		2				19:30	0		1				
07:45	4	15	1	6		21	19:45	_ 1	4	1 5	5			9
08:00	2		3				20:00	0		3				
08:15	1		4				20:15	1		5				
08:30	3		2				20:30	2		2				
08:45	5	11	2	11		22	20:45	1	4	1 1	1			15
09:00	2		2				21:00	0		1				
09:15	2		1				21:15	1		3				
09:30	0		1				21:30	0		3				
09:45	2	6	1	5		11	21:45	2	3	1 8	3			11
10:00	2		5				22:00	2		1				
10:15	6		1				22:15	1		1				
10:30	0		2				22:30	2		1				
10:45	2	10	2	10		20	22:45	1	6		1			10
11:00	0		2				23:00	0		0				
11:15	1		2				23:15	1		1				
11:30	2		1				23:30	0		0				
11:45	3	6	1	6		12	23:45	1	2		2			4
Total Vol.		63		44		107			93		10			203
GPS Coordinate	s:		682380,	-117,102649								Daily Totals	MB	
									NB 156	15	5B 54	EB	WB	Combined 310
		-			AM		_					PM		
Split %	_	58.9%		41.1%		34.5%			45.8%		2%			65.5%
Peak Hour		06:30		08:00		08:00			14:45	15	:00			14:45
		15		11		22			22	10	8			39
Volume P.H.F.		0.54		0.69		0.79			0.61		.75			0.81

Volumes for:

City: National City

Project# 18-1267-002

Monday, June 04, 2018 Tuesday, June 05, 2018 Location : F Ave. south of E. 2nd St.

### **2-DAY AVERAGE**

AM Period	NB		SB		EB		WB			PM Period	NB		SB		EB		WB		
00:00	1		0		0		0			12:00	2		3		0		0		
00:15	1		0		0		0			12:15	3		3		0		0		
00:30	1		0		0		0			12:30	3		3		0		0		
00:45	1	3	0	0	0	0	0	0	3	12:45	1	8	1	10	0	0	0	0	17
01:00	2		1		0		0			13:00	3		2		0		0		
01:15	0		0		0		0			13:15	2		3		0		0		
01:30	0		0		0		0			13:30	2		2		0		0		
	0	2	0	1	0	0	0	0	2	13:45	1	7	2	9	0	0	0	0	16
01:45		2		1		U		0								- 0		U	10
02:00	0		0		0		0			14:00	3		2		0		0		
02:15	0		0		0		0			14:15	2		2		0		0		
02:30	0		0	-	0		0			14:30	2	4/8	3	5-7	0		0		5.00
02:45	1	1	0	0	0	0	0	0	1	14:45	3	10	4	11	0	0	0	0	21
03:00	0		0		0		0			15:00	6		4		0		0		
03:15	0		0		0		0			15:15	5		5		0		0		
03:30	0		0		0		0			15:30	4		3		0		0		
03:45	1	1	0	0	0	0	0	0	1	15:45	1	15	3	15	0	0	0	0	29
04:00	0		1		0		0			16:00	3		2		0		0		
04:15	0		0		0		0			16:15	5		3		0		0		
04:30	1		0		0		0			16:30	4		4		0		0		
04:45	2	2	1	1	0	0	0	0	3	16:45	4	15	3	11	0	0	0	0	25
				-		-		U				13		11		U		- 0	- 23
05:00	1		0		0		0			17:00	3		4		0		0		
05:15	1		0		0		0			17:15	5		2		0		0		
05:30	1		0		0		0			17:30	4		4		0		0		
05:45	1	4	1	1	0	0	0	0	4	17:45	2	13	2	11	0	0	0	0	24
06:00	1		1		0		0			18:00	5		3		0		0		
06:15	1		1		0		0			18:15	2		2		0		0		
06:30	2		1		0		0			18:30	1		3		0		0		
06:45	2	5	1	3	0	0	0	0	8	18:45	1	8	1	8	0	0	0	0	16
07:00	5		1		0		0			19:00	2		2		0		0		
07:15	2		3		0		0			19:15	2		2		0		0		
	3		2		0		0			19:30	1		3		0		0		
07:30	3	12	1	6	0	0	0	0	18	19:45	1	5	2	9	0	0	0	0	14
07:45		12		0		U		U	10			3		9		U		U	14
08:00	5		4		0		0			20:00	1		3		0		0		
08:15	2		4		0		0			20:15	2		3		0		0		
08:30	4		4		0		0			20:30	2		2		0		0		
08:45	5	15	3	13	0	0	0	0	28	20:45	1	4	3	11	0	0	0	0	15
09:00	2		2		0		0			21:00	0		1		0		0		
09:15	1		1		0		0			21:15	1		2		0		0		
09:30	1		1		0		0			21:30	0		2		0		0		
09:45	2	5	1	5	0	0	0	0	9	21:45	2	2	1	5	0	0	0	0	7
10:00	2		4		0		0			22:00	2		1		0		0		
	4		1		0		0			22:15	2		1		0		0		
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10:45	3	9	2	9	0	0	0	0	17	22:45	1	5	1	3	0	0	0	0	8
11:00	1		4		0		0			23:00	0		0		0		0		
11:15	2		2		0		0			23:15	1		1		0		0		
11:30	1		2		0		0			23:30	0		1		0		0		
11:45	4	7	2	9	0	0	0	0	15	23:45	1	2	1	2	0	0	0	0	4
Total Vol.		62		45					107			92		102					194
SPS Coordinate	es:	32	2.682380,	-117,1026	49							NB		SB	D	aily Tot	als		Combine
												154		147					301
Calif O/		E7 00'		43.10	Α	M			35.6%	-		47.3%		52.7%		PM			EA 40/
Split %	-	57.9%		42.1%	_	_		_										_	64.4%
Peak Hour		08:00		08:00					08:00			14:45		14:30					14:45
		Print.		40								4-4		20					
Volume P.H.F.		15 0.83		13 0.93					28			17		15					32

### NATIONAL CITY TRAFFIC SAFETY COMMITTEE AGENDA REPORT FOR JUNE 20, 2018

ITEM NO. 2017-13

ITEM TITLE:

REQUEST TO INSTALL STOP CONTROL SIGN AT VARIOUS INTERSECTIONS WITHIN THE NEIGHBORHOOD BOUNDED BY E. 1ST STREET TO THE NORTH, E. 4TH STREET TO THE SOUTH, HIGHLAND AVENUE TO THE EAST AND "D" AVENUE TO THE WEST.

TO THE WEST

PREPARED BY:

Luca Zappiello, Junior Engineer - Civil Engineering & Public Works Department

### DISCUSSION:

Several residents contacted Engineering staff expressing safety concerns regarding the intersection at E. 2nd Street and "F" Avenue, citing one accident that occurred within the past few months. Area residents stated that many drivers ignore the Yield control signs installed on "F" Avenue (minor street) and they drive through the intersection without stopping and/or paying attention to the vehicles driving on E. 2<sup>nd</sup> Street (through street).

Staff performed a site evaluation. E. 2<sup>nd</sup> Street and "F" Avenue are 2-lane local roadways with prima facie speed limits of 25 mph and unrestricted parallel parking on both sides of the streets. Staff confirmed that the intersection of E. 2<sup>nd</sup> Street and "F" Avenue is controlled by Yield control signs on "F" Avenue (minor street).

Engineering staff authorized Kimley-Horn & Associates to perform the 48-hour Average Daily Traffic (ADT) for E 2<sup>nd</sup> Street and "F" Avenue at the intersection. The ADT counts determine if the two streets have similar operating characteristics to warrant the installation of All-Way Stop control based on the guidelines provided in the California Manual on Uniform Traffic Control Devices. The ADT counts were performed during the first week of June and are attached to this report.

Staff also reviewed the traffic collision history for this intersection, which confirmed there were three "reported" traffic collisions within the past four years. The NCPD report shows that two crashes at the intersection were caused by failure to yield the right-of-way (CVC 21803A). See attachment traffic collision summary table.

The results of the ADT data provided by Kimley-Horn & Associates indicate that the intersection warrants for All-Way Stop control since the two-day average (June 4<sup>th</sup> 2018 and June 5<sup>th</sup> 2018) of the daily traffic counts of the two streets was found to be 375 for E. 2nd Street east of "F" Avenue and 301 for "F" Avenue south of E. 2<sup>nd</sup> Street. This result is supported by the CA-MUTCD, which states that an "intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection."

Furthermore, staff observed that the nearby intersections of E. 1st Street and "F" Avenue, E. 2nd Street and "E" Avenue and E. 2nd Street and "G" Avenue are "T" intersections and they operate as yield controlled for the minor street. Staff recommends replacing the Yield Control sign with a Stop Control sign at all of the three intersections since vehicles travelling on the minor streets must make a complete stop before attempting to enter onto the major streets that have the right of way.

Staff also noted that the two intersections of E. 3rd Street and "E" Avenue and E. 3rd Street and "G" Avenue are also controlled by Yield signs for the minor streets. At these intersections, staff recommends replacing the Yield Control sign with a Stop Control sign to provide consistency with other nearby intersections that have similar operating characteristics. California Vehicle Code and National City Municipal Code require a minimum of 25 feet of red curb "No Parking" for each approach to a Stop sign.

### STAFF RECOMMENDATION:

Staff recommends the following traffic safety enhancements for the neighborhood bounded by E. 1<sup>st</sup> Street to the north, E. 4<sup>th</sup> Street to the south, Highland Avenue to the east and "D" Avenue to the west:

- 1. Install Stop control for the northbound "F" Avenue approaches (minor street) to the intersection with E. 1<sup>th</sup> Street (through street);
- 2. Install Stop control for the northbound "E" Avenue approaches (minor street) to the intersection with E. 2<sup>nd</sup> Street (through street);
- 3. Install Stop control for the southbound and northbound "F" Avenue approaches to the intersection with E. 2<sup>nd</sup> Street;
- Install Stop control for the eastbound and westbound E 2<sup>nd</sup> Street approaches to the intersection with E. 2<sup>nd</sup> Street;
- Install Stop control for the northbound "G" Avenue approaches (minor street) to the intersection with E. 2<sup>nd</sup> Street (through street);
- 6. Install Stop control for the southbound and northbound "E" Avenue approaches (minor street) to the intersection with E. 3<sup>rd</sup> Street (through street);
- 7. Install Stop control for the southbound and northbound "G" Avenue approaches (minor street) to the intersection with E. 3<sup>rd</sup> Street (through street);

### **ATTACHMENTS:**

- 1. Correspondence;
- 2. Public Notice;
- 3. Location Map with Existing Conditions;
- 4. Location Map with Recommended Enhancements:
- 5. Photos:
- 6. ADT counts:
- 7. Traffic Collision History.

Good day Mr. Rodriguez,

I am reaching out to you as a concerned neighbor for the safety of my community.

Last night at approximately 8:30 pm there was once again an accident on F Ave and E.  $2^{nd}$ .

This intersection is prone to accidents at least once every three months or so. In my humble opinion we need to survey and make it less dangerous for all of us! I have witnessed vehicles traveling on E.  $2^{nd}$  after turning from Highland at a high speed of rate.

I live at 221 F Ave- one of the vehicles involved ended up in front of my home. Scary uh?

I came out as many of the neighbors did- to render help. You should have seen the little girl that was in one of the vehicles- shaking like a leaf (waiting for the ambulance).

As a matter of public record -I/we would like to know exactly how many accidents there are a year on that intersection- If I may please.

As a member of the community and on behave of many of my neighbors we'd like to petition a very much need STOP sign.

I understand there is a protocol in place- If you would be kind to guide me through the process or give me the name of the person which I could contact to expedite the process I would very much appreciate it.

Thank you for your time and cooperation.

Laura E. Guzman



June 13, 2018

Resident/Property Owner

Subject: TRAFFIC SAFETY COMMITTEE (TSC) ITEM NO. 2018-13

REQUEST TO INSTALL STOP CONTROL SIGN AT VARIOUS INTERSECTIONS WITHIN THE NEIGHBORHOOD BOUNDED BY E. 1<sup>ST</sup> STREET TO THE NORTH, E. 4<sup>TH</sup> STREET TO THE SOUTH, HIGHLAND AVENUE TO THE EAST AND "D" AVENUE TO THE WEST

Dear Sir/Madame:

The City of National City would like to invite you to our next public Traffic Safety Committee Meeting scheduled for **Wednesday**, **June 20**, **2018**, **at 1:00 P.M**. in the 2<sup>nd</sup> Floor Large Conference Room of the Civic Center Building, 1243 National City Boulevard, to discuss the above-referenced item.

The City Hall is ADA compliance. Please note that there are two disabled persons parking spaces in front of City Hall on the east side of National City that provide direct access on the 2<sup>nd</sup> Floor of City Hall via a pedestrian bridge.

If you have any questions, comments, and/or concerns, please contact the Engineering Department at 619-336-4380 and reference Traffic Safety Committee Item Number 2018-13.

Sincerely,

Stephen Manganiello

City Engineer

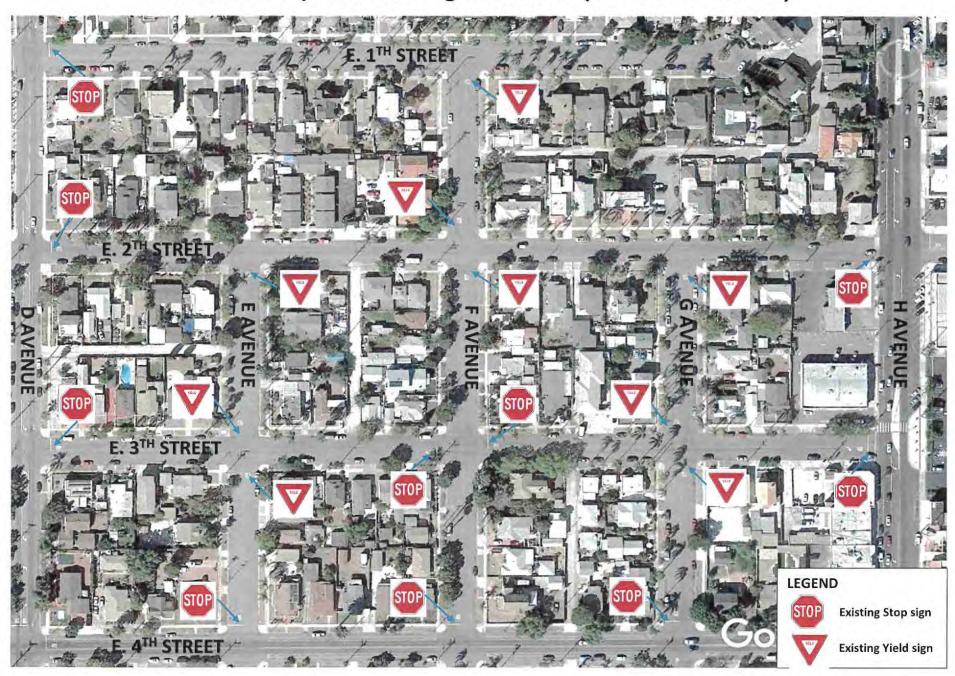
SM:lz

Enclosure: Location Map with Existing Conditions

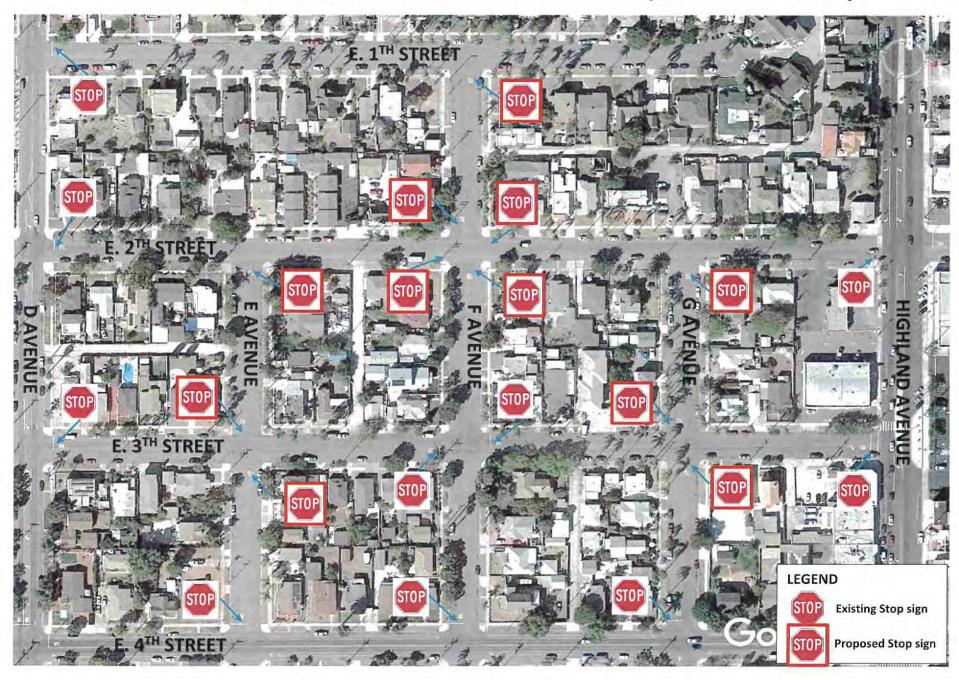
2. Maganiello

Location Map with Recommended Enhancements

### **Location Map with Existing Conditions (TSC Item: 2018-13)**



### Location Map with Recommended Enhancements (TSC Item: 2018-13)





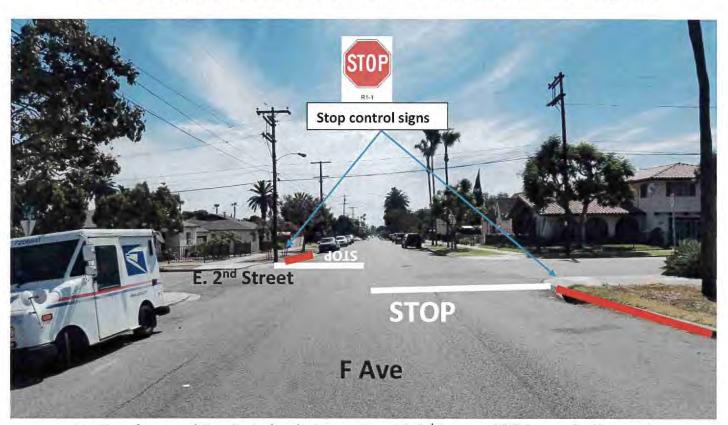
Location of proposed Stop Control at the "T" intersection at E. 1st Street and "F" Avenue (looking south)



Location of proposed Stop Control at the "T" intersection at E. 1st Street and "F" Avenue (looking north)



Location of proposed Stop Control at the intersection at E. 2<sup>nd</sup> Street and "F" Avenue (looking south)



Location of proposed Stop Control at the intersection at E. 2<sup>nd</sup> Street and "F" Avenue (looking west)



Location of proposed Stop Control at the "T" intersection at E. 2<sup>nd</sup> Street and "G" Avenue (looking south)



Location of proposed Stop Control at the "T" intersection at E. 2nd Street and "G" Avenue (looking north)



Location of proposed Stop Control at the intersection at E. 3<sup>rd</sup> Street and "G" Avenue (looking south)



Location of proposed Stop Control at the intersection at E. 3<sup>rd</sup> Street and "G" Avenue (looking east)



Location of proposed Stop Control at the intersection at E. 3<sup>rd</sup> Street and "E" Avenue (looking east)



Location of proposed Stop Control at the intersection at E. 3<sup>rd</sup> Street and "E" Avenue (looking south)



Location of proposed Stop Control at the "T" intersection at E. 2<sup>nd</sup> Street and "E" Avenue (looking north)



Location of proposed Stop Control at the "T" intersection at E. 2nd Street and "E" Avenue (looking south)

Volumes for:

Monday, June 04, 2018

Tuesday, June 05, 2018 Location: E. 2nd St. east of F Ave.

City: National City

Project# 18-1267-001

### 2-DAY AVERAGE

AM Period	NB		SB		EB		WB			PM Period	NB		SB		EB		WB		
00:00	0		O		0		1			12:00	0		0		2		4		
00:15	0		0		1		1			12:15	0		0		3		4		
00:30	0		0		1		0			12:30	0		0		3		3		
00:45	0	0	0	0	1	2	0	1	3	12:45	0	0	0	0	3	10	2	11	21
01:00	0		0		1		1			13:00	0		0		4		4		
01:15	0		0		0		1			13:15	0		0		4		2		
01:30	0		0		0		0			13:30	0		0		2		2		
01:45	0	0	0	0	0	1	0	1	2	13:45	0	0	0	0	4	12	4	12	24
02:00	Ô		0		0		0			14:00	0		0		4		4		
02:15	0		0		1.		0			14:15	0		0		3		3		
02:30	0		0		0		0			14:30	0		0		2		4		
02:45	0	0	0	0	1	2	1	1	2	14:45	0	0	0	0	2	10	4	13	23
03:00	0		0		1		1			15:00	0		0		5		3		77
03:15	0		0		1		0			15:15	0		0		3		5		
03:30	0		0		1		1			15:30	0		0		3		5		
03:45	0	0	0	0	0	2	1	2	3	15:45	0	0	0	0	5	14	3	16	30
04:00	0		0		0		0		-	16:00	0		0		3		7		20
04:00	0		0		1		1			16:15	0		0		3		4		
04:13	0		0		0		2			16:30	0		0		1		5		
04:45	0	0	0	0	0	1		4	4	16:45	0	0	0	0	2	8	5	20	28
05:00	0	-	0		1		0	_		17:00	0	-	0		3	-	7	LV	20
05:00	0		0		1		1			17:15	0		0		2		4		
05:30	0		0		1		2			17:30	0		0		4		7		
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09:15	0		0		4		2			21:15	0		0		1		0		
09:30	0		0	•	3	70	1		25	21:30	0		0		2		1		1.2
09:45	0	0	0	0	6	20		5	25	21:45	0	0	0	0	1	4	0	1	5
10:00	0		0		3		1			22:00	0		0		1		1		
10:15	0		0		5		2			22:15	0		0		0		0		
10:30	0		0		2	4.2	3	0		22:30	0	-	0	4	1	-2	0		12.
10:45	0	0	0	0	4	14		8	22	22:45	0	0	0	0	0	1	0	1	2
11:00	0		0		5		2			23:00	0		0		1		1		
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11:45	0	0	0	0	6	18	2	9	26	23:45	0	0	0	0	0	3	1	1	4
Total Vol.						95		1	136							94		146	240
GPS Coordinate	s:	3	2.682882,	-117.102.	385							NB		SB	D	aily Tot	als		Combined
																189		187	375
Calit n/	1/4				A	60 70t	20	20/	26 10/		-					PM		60 004	63.007
Split %						69.7%			36.1%							39.2%		60.8%	63.9%
Peak Hour						09:00		:30	11:30							15:00		17:30	17:30
Volume						20		2	27							14		25	37
P.H.F.						0.71	0	86	0.83							0.78		0.78	0.77

Volumes for: Monday, June 04, 2018

Tuesday, June 05, 2018

Location: F Ave. south of E. 2nd St.

84

City: National City

Project# 18-1267-002

### 2-DAY AVERAGE

AM Period	NB		SB		EB		WB			PM Period	NB		SB		EB		WB		
00:00	1		0		0		0			12:00	2		3		0		0		
00:15	1		0		0		0			12:15	3		3		0		0		
00:30	1		0		0		0			12:30	3		3		0		0		
00:45	1	3	0	0	0	0	0	0	3	12:45	1	8		10	0	0	0	0	17
01:00	2		1		0		0			13:00	3		2		0		0		*/
01:00	0		0		0		0			13:15	2		3		0				
01:30	0		0		0		0			13:30	2		2		0		0		
01:45	0	2	0	1	0	0	0	0	2	13:45	1	7		9	0	0	0	0	16
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02:15	0		0		0		0			14:15	2		2		0		0		
02:30	0	4	0	0	0	0	0	0		14:30	2	10	3		0	0	0	0	-
02:45	1	1		0		0	_	0	1	14:45	3	10		11	0	0	0	0	21
03:00	0		0		0		0			15:00	6		4		0		0		
03:15	0		0		0		0			15:15	5		5		0		0		
03:30	0		0		0		0			15:30	4		3		0		0		
03:45	1	1	0	0	0	0	0	0	1	15:45	1	15	3	15	0	0	0	0	29
04:00	0		1		0		0			16:00	3		2		0		0		
04:15	0		0		0		0			16:15	5		3		0		0		
04:30	1		0		0		0			16:30	4		4		0		0		
04:45	2	2	1	1	0	0	.0	0	3	16:45	4	15	3	11	0	0	0	0	25
05:00	1		0		0		0			17:00	3		4		0		0		
05:15	1		0		0		0			17:15	5		2		0		0		
05:30	1		0		0		0			17:30	4		4		0		0		
05:45	1	4	1	1	0	0	0	0	4	17:45	2	13		11	0	0	0	0	24
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06:15	1		1		0		0			18:15	2		2		0		0		
06:30	2		1		0		0			18:30	1		3		0		0		
06:45	2	5	1	3	0	0	0	0	8	18:45	1	8		8	0	0	0	0	16
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08:30	4		4		0		0			20:30	2		2		0		0		
08:45	5	15	3	13	0	0	0	0	28	20:45	1	4	3	11	0	0	0	0	15
09:00	2		2		0		0			21:00	.0		1		0		0		
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09:45	2	5	1	5	0	0	0	0	9	21:45	2	2	1	5	0	0	0	0	7
10:00	2		4		0		0			22:00	2		1		0		0		
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10:30	1		2		0		0			22:30	2		1		0		0		
10:45	3	9	2	9	0	0	0	0	17	22:45	1	5		3	0	0	0	0	8
11:00	1		4		0		0			23:00	0		0		0		0		
11:15	2		2		0		0			23:15	1		1		0		0		
11:30	1		2		0		0			23:30	0		1		0		0		
11:45	4	7	2	9	0	0	0	0	15	23:45	1	2		2	0	0	0	0	4
			-		9		-	-		20115						-	- 0		-
Total Vol.		62		45					107			92	1	02					194
GPS Coordinates	:	32.	682380,	-117.10264	19							NB		SB	Da	aily Tot	als		Combined
												154		47					301
Calit 0/		E7 00/		40.10	A	М			3E CO/			47 70/		701		РМ			64.407
Split %		57.9%		42.1%					35.6%			47.3%		.7%					64.4%
Peak Hour		08:00		08:00					08:00			14:45		:30					14:45
Volume		15		13					28			17	- 6	15					32
P.H.F.		0.83		0.93					0.88			0.75	-5	.83					0.83

#### RESOLUTION NO. 2018 –

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE INSTALLATION OF STOP CONTROL SIGN AT VARIOUS INTERSECTIONS WITHIN THE NEIGHBORHOOD BOUNDED BY EAST 1<sup>ST</sup> STREET TO THE NORTH, EAST 4<sup>TH</sup> STREET TO THE SOUTH, HIGHLAND AVENUE TO THE EAST, AND "D" AVENUE TO THE WEST

WHEREAS, several area residents expressed safety concerns regarding the intersection of East 2nd Street and "F" Avenue because many drivers ignore the Yield control signs installed on "F" Avenue (minor street) and they drive through the intersection without stopping and/or paying attention to the vehicles driving on East 2nd Street (through street); and

WHEREAS, 48-hour Average Daily Traffic (ADT) counts were conducted during the week of June 4 near the intersection of East 2nd Street and "F" Avenue to determine if the two streets have similar operating characteristics to warrant the installation of All-Way Stop control based on the guidelines provided in the California Manual on Uniform Traffic Control Devices; and

WHEREAS, a review of the traffic collision history for this intersection confirms that there were three "reported" traffic collisions within the past four years at this intersection, which were caused by failure to yield the right-of-way; and

WHEREAS, after review of the 48-hour ADT count and the collision history for the intersection of East 2nd Street and "F" Avenue, staff recommended to the Traffic Safety Committee that the following traffic safety enhancements in the neighborhood bounded by East 1st Street to the north, East 4th Street to the south, Highland Avenue to the East, and "D" Avenue to the west:

- 1. Installation of All-Way Stop control at the intersection of "F" Avenue and East 2nd Street:
- 2. Installation of Stop control for the northbound "F" Avenue approach (minor street) to the intersection with East 1st Street (through street);
- 3. Installation of Stop control for the northbound "E" Avenue approach (minor street) to the intersection with East 2nd Street (through street);
- 4. Installation of Stop control for the northbound "G" Avenue approach (minor street) to the intersection with East 2nd Street (through street);
- 5. Installation of Stop control for the northbound and southbound "E" Avenue approaches (minor street) to the intersection with East 3rd Street (through street); and
- 6. Installation of Stop control for the northbound and southbound "G" Avenue approaches (minor street) to the intersection with East 3rd Street (through street).

WHEREAS, at its meeting on June 20, 2018, the Traffic Safety Committee approved staff's recommendation as stated above.

Resolution No. 2018 – Page Two

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the following traffic safety enhancements in the neighborhood bounded by East 1st Street to the north, East 4th Street to the south, Highland Avenue to the East, and "D" Avenue to the west:

- 1. Installation of All-Way Stop control at the intersection of "F" Avenue and East 2nd Street:
- 2. Installation of Stop control for the northbound "F" Avenue approach (minor street) to the intersection with East 1st Street (through street);
- 3. Installation of Stop control for the northbound "E" Avenue approach (minor street) to the intersection with East 2nd Street (through street);
- 4. Installation of Stop control for the northbound "G" Avenue approach (minor street) to the intersection with East 2nd Street (through street);
- 5. Installation of Stop control for the northbound and southbound "E" Avenue approaches (minor street) to the intersection with East 3rd Street (through street); and
- 6. Installation of Stop control for the northbound and southbound "G" Avenue approaches (minor street) to the intersection with East 3rd Street (through street).

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor	
Michael R. Dalla, City Clerk		
APPROVED AS TO FORM:		٠
Angil P. Morris-Jones City Attorney		

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City authorizing the removal of one, 15-minute time restricted parking space in front of the residence located at 1039 "D" Avenue (TSC No. 2018-14). (Engineering/Public Works)

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE:	July 24, 2018		1.5	AGENDA ITEM N	IO.
ITEM TITLE:					
		ity of National City auth idence located at 1039 "[			e time
NA 20 10 10 10 10 10 10 10 10 10 10 10 10 10	Luca Zappiello, Junic	or Engineer – Civil	DEPARTMENT: En	gineering/Public	Works
PHONE: 619-336	-4360		APPROVED BY:	1/	
EXPLANATION:			My 7. Wan	ganiell	
See attached.					
FINIANCIAL STAT	CRACAIT.		ADDROVED:		Tinongo
FINANCIAL STAT	EWENT:		APPROVED:		Finance
ACCOUNT NO.			APPROVED:		MIS
N/A					
ENVIRONMENTAI	REVIEW-				
N/A	a IXIa VIIIa VV				
IN//-X					
ORDINANCE: IN	TRODUCTION:	FINAL ADOPTION:			
STAFF RECOMMI	ENDATION:				
		f one, 15-minute time restri	cted parking space in fr	ont of the residence	e located
	CON DECOMMEND	TION			
	SSION RECOMMENDA		d stoffe recovered the	un to romania and d	E weine 1
		Safety Committee approve sidence located at 1039 "D"		n to remove one, 1	5-minute
ATTACHMENTS:					

3. Resolution

Explanation w/ Exhibit
 Staff Report to the Traffic Safety Committee on June 20, 2018 (TSC No. 2018-14)

### **EXPLANATION**

Area residents have requested the removal of one, 15-minute time restricted parking space in front of the residence located at 1039 "D" Avenue.

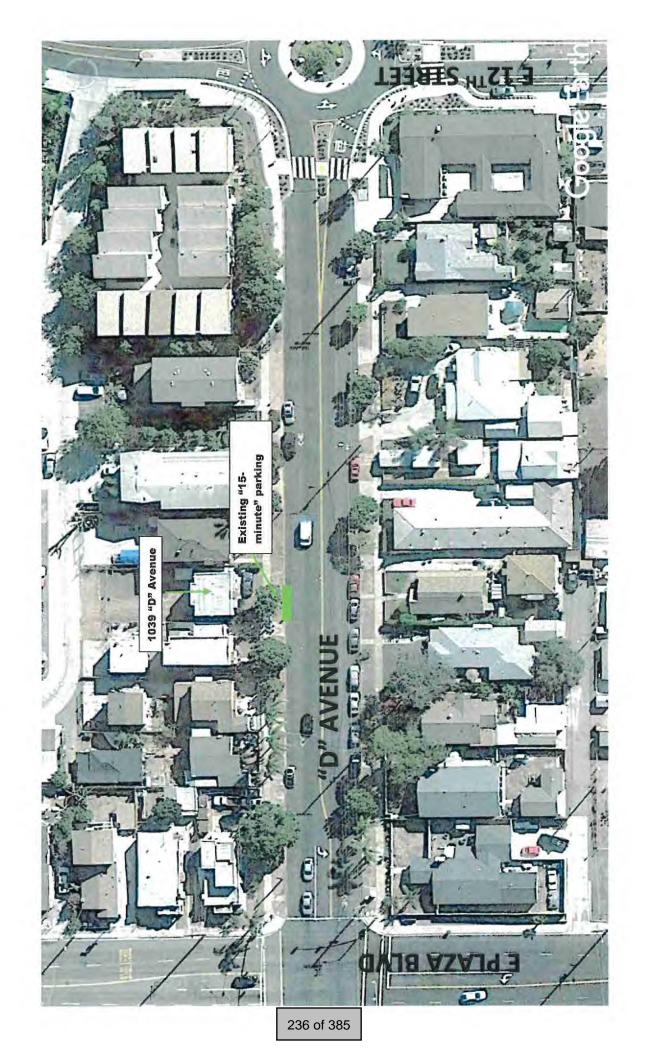
Staff visited the site, which is located in a residential area on the east side of "D" Avenue between E. Plaza Boulevard and E. 12th Street. "D" Avenue is a 2-lane collector roadway with unrestricted parallel parking on both sides of the street (except for the 15-minute time restricted parking space in front of 1039 "D" Avenue) and a posted speed limit of 25 mph.

Staff agrees that 15-minute time restricted parking is more appropriate in business districts to encourage parking turnover. Since this is a residential neighborhood with no businesses on the block, staff recommends the removal of one, 15-minute time restricted parking space in front of the residence located at 1039 "D" Avenue.

Staff sent notices to area property owners and residents, including the owner of 1039 "D" Avenue, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions.

This item was presented to the Traffic Safety Committee on June 20, 2018. There were no members of the community present to speak on the item. Staff presented the results of the site evaluation and after discussion, the Traffic Safety Committee voted to approve staff's recommendation to remove the existing time restricted parking space in front of the residence located at 1039 "D" Avenue.

If approved by City Council, all work will be performed by City Public Works.



### NATIONAL CITY TRAFFIC SAFETY COMMITTEE AGENDA REPORT FOR JUNE 20, 2018

ITEM NO. 2018-14

ITEM TITLE:

REQUEST TO REMOVE THE EXISTING TIME RESTRICTED PARKING IN FRONT OF THE RESIDENCE LOCATED AT 1039

"D" AVENUE

PREPARED BY:

Luca Zappiello, Junior Engineer - Civil

Engineering & Public Works Department

#### DISCUSSION:

Area residents have requested the removal of the existing time restricted parking in front of the residence located at 1039 "D" Avenue.

Staff visited the site. The residence at 1039 "D" Avenue is located in a residential area on the east side of "D" Avenue between E Plaza Boulevard and E 12<sup>th</sup> Street. "D" Avenue is a 2-lane local roadway with unrestricted parallel parking on both sides on the street and prima facie speed limits of 30 mph. It should be noted that there are no businesses located in this area.

Staff confirmed that there are twenty (20) feet of existing time restricted "15-minute" parking in front of the residence located at 1039 "D" Avenue. Since the existing time restricted parking sign is located in a residential area where there is no need for parking turnover, staff recommends the removal of twenty (20) feet of existing time restricted "15-minute" parking.

Staff sent notices to area property owners and residents, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions.

### STAFF RECOMMENDATION:

Based on an evaluation of existing conditions, staff recommends the removal of twenty (20) feet of existing time restricted "15-minute" parking in front of the residence located at 1039 "D" Avenue.

If approved by City Council, all work will be performed by City Public Works.

#### **EXHIBITS:**

- 1. Public Request
- 2. Public Notice
- 3. Location Map
- 4. Photos



### **PUBLIC REQUEST FORM**

Name: Anonymous	
Address:	
Phone: Email	:
1030 "D" Avenue	
Location: 1039 "D" Avenue	
Request: Request of removal existing "1	5-minute" parking in front of the residence
Attachments: Yes No Description:	
Request Received By: L. Zappiello	<sub>Date:</sub> May 2, 2018
Received via: Counter/In-Person Telephone	Emall Fax Referral:
Assigned To: L. Zappiello	
Notes:	



June 13, 2018

Resident/Property Owner

Subject: TRAFFIC SAFETY COMMITTEE (TSC) ITEM NO. 2018-14

### REQUEST TO REMOVE THE EXISTING TIME RESTRICTED PARKING IN FRONT OF THE RESIDENCE LOCATED AT 1039 "D" AVENUE

Dear Sir/Madame:

The City of National City would like to invite you to our next public Traffic Safety Committee Meeting scheduled for **Wednesday**, **June 20**, **2018**, **at 1:00 P.M**. in the 2<sup>nd</sup> Floor Large Conference Room of the Civic Center Building, 1243 National City Boulevard, to discuss the above-referenced item.

The City Hall is ADA compliance. Please note that there are two disabled persons parking spaces in front of City Hall on the east side of National City that provide direct access on the 2<sup>nd</sup> Floor of City Hall via a pedestrian bridge.

If you have any questions, comments, and/or concerns, please contact the Engineering Department at 619-336-4380 and reference Traffic Safety Committee Item Number 2018-14.

Sincerely,

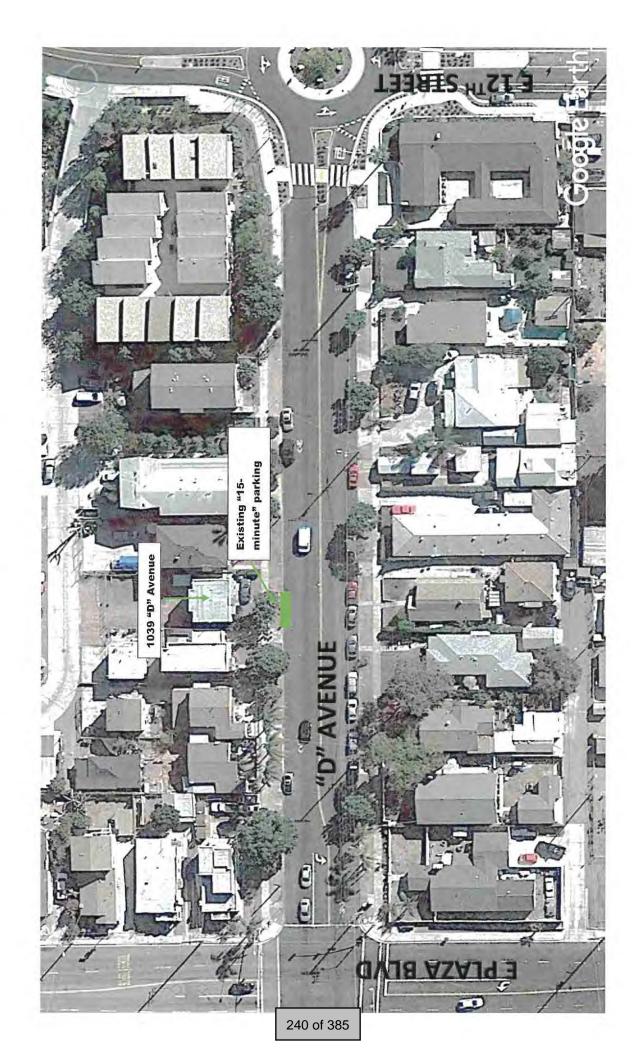
Stephen Manganiello

hom 7. Marganiello

City Engineer

SM:Iz

Enclosure: Location Map





Location of requested removal of the existing time restricted parking located at 1039 D Avenue (looking east)



Location of requested removal of the existing time restricted parking located at 1039 D Avenue (looking north)

#### RESOLUTION NO. 2018 -

# RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE REMOVAL OF THE EXISTING 15-MINUTE TIME-RESTRICTED PARKING SPACE IN FRONT OF THE RESIDENCE LOCATED AT 1039 "D" AVENUE

WHEREAS, area residents have requested the removal of the existing 15-minute time-restricted parking space in front of the residence located at 1039 "D" Avenue, a residential property; and

WHEREAS, after a site evaluation, staff agrees that 15-minute time-restricted parking is more appropriate in business districts to encourage parking turnover, but because this is a residential neighborhood with no businesses on the block, staff recommends the removal of the existing 15-minute time-restricted parking space in front of the residence located at 1039 "D" Avenue; and

WHEREAS, at its meeting on June 20, 2018, the Traffic Safety Committee approved staff's recommendation to remove the existing time-restricted parking space in front of the residence located at 1039 "D" Avenue.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the removal of the existing 15-minute time-restricted parking space in front of the residence located at 1039 "D" Avenue.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City authorizing the removal of two, 30-minute time restricted parking spaces in front of the building located at 1900 Wilson Avenue (TSC No. 2018-15). (Engineering/Public Works)

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE:	July 24, 2018	AGEND	A ITEM NO.
		City authorizing the removal of two, at 1900 Wilson Avenue (TSC No. 2018-	
PREPARED BY: IPHONE: 619-336-EXPLANATION: See attached.	Luca Zappiello, Junior Engineer – 0 -4360	Civil DEPARTMENT: Engineering APPROVED BY:  Approved BY:	
FINANCIAL STATI	EMENT:	APPROVED:	Finance MIS
ACCOUNT NO.  N/A  ENVIRONMENTAL  N/A	<u>REVIEW</u> :	APPROVED:	Mis
ORDINANCE: IN	TRODUCTION: FINAL ADOP	PTION:	
STAFF RECOMME Adopt Resolution aud 1900 Wilson Avenue	thorizing the removal of two, 30-minute ti	me restricted parking spaces in front of the	building located at
At their meeting on J	SION RECOMMENDATION: June 20, 2018, the Traffic Safety Committing spaces in front of the building located a	ee approved staff's recommendation to rem t 1900 Wilson Avenue	nove two, 30-minute

### ATTACHMENTS:

- 1. Explanation w/ Exhibit
- 2. Staff Report to the Traffic Safety Committee on June 20, 2018 (TSC No. 2018-15)
- 3. Resolution

### **EXPLANATION**

Mr. Orlando Perez, an area resident, has requested the removal of two, 30-minute time restricted parking spaces in front of the building located at 1900 Wilson Avenue. Mr. Perez stated that the property has been vacant for more than three years and there are two underutilized time-restricted parking spaces in front of the building. Mr. Perez also stated that since Saint Anthony's Catholic Church is located nearby, all of the available on-street parking is heavily impacted during mass hours. Mr. Perez indicated that the removal of the existing time restricted "30-minute" parking spaces in front of the building at 1900 Wilson Avenue would alleviate some of the parking impacts by providing additional unrestricted parking for area residents.

Staff visited the site. The building at 1900 Wilson Avenue is located on the west side of the intersection of Wilson Avenue and W. 19th Street. Wilson Avenue is a 2-lane roadway with parallel parking available on both sides of the street and a posted speed limit of 30 mph. This area has both residential and commercial properties.

Staff confirmed that there are forty (40) feet of existing 30-minute, time restricted parking in front of the building at 1900 Wilson Avenue. Staff confirmed that the building is vacant at this time and that there are four private parking spaces located in the rear of the building. Staff also confirmed that there is a parking lot at Saint Anthony's Catholic Church on the northeast corner of Wilson Avenue and W. 19th Street.

Staff sent notices to area property owners and tenants, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions.

This item was presented to the Traffic Safety Committee on June 20, 2018. Mr. Perez's wife, Mrs. Rosalie Perez, was in attendance and spoke in support of removing both 30-minute time restricted parking spaces in front of the building located at 1900 Wilson Avenue. Staff presented the results of the site evaluation and after discussion, the Traffic Safety Committee voted to approve staff's recommendation to remove two, 30-minute time restricted parking spaces in front of the building located at 1900 Wilson Avenue.

If approved by City Council, all work will be performed by City Public Works.

### **Location Map with Existing Conditions (TSC Item: 2018-15)**



## NATIONAL CITY TRAFFIC SAFETY COMMITTEE AGENDA REPORT FOR JUNE 20, 2018

ITEM NO. 2018-15

ITEM TITLE:

REQUEST TO REMOVE THE EXISTING TIME RESTRICTED "30-MINUTE" PARKING IN FRONT OF THE BUILDING LOCATED AT

**1900 WILSON AVENUE** 

**PREPARED BY:** 

Luca Zappiello, Junior Engineer - Civil Engineering & Public Works Department

### **DISCUSSION:**

Mr. Orlando Perez, an area resident, has requested the removal of the existing time restricted "30-minute" parking in front of the building located at 1900 Wilson Avenue. Mr. Perez stated that the property has been vacant for more than three years and there are two unutilized time-restricted "30-minute" parking spaces in front of the building. Mr. Perez also stated that since Saint Anthony's Catholic church is located nearby, all of the available onstreet parking is heavily impacted during mass hours. Mr. Perez indicated that the removal of the existing time restricted "30-minute" parking in front of the building at 1900 Wilson Avenue would alleviate the parking problem by providing additional parking available for area residents.

Staff visited the site. The building at 1900 Wilson Avenue is located on the west side of the intersection at Wilson Avenue and W. 19<sup>th</sup> Street. At this address, Wilson Avenue is a 2-lane roadway with unrestricted parallel parking available on both sides on the street and prima facie speed limits of 30 mph. This area is residential and commercial.

Staff confirmed that there are forty (40) feet of existing time restricted "30-minute" parking in front of the building at 1900 Wilson Avenue. Staff confirmed that the building is vacant at this time and that there are four private parking spaces located in the rear of the building.

Staff also confirmed that there is a parking lot at Saint Anthony's Catholic church on the northeast corner of Wilson Avenue and W. 19<sup>th</sup> Street.

Staff sent notices to area property owners and tenants, inviting them to attend the Traffic Safety Committee Meeting and/or contact staff with any questions.

#### STAFF RECOMMENDATION:

Based on an evaluation of existing conditions, staff recommends the removal of forty (40) feet of existing time restricted "30-minute" parking in front of the building located at 1900 Wilson Avenue.

If approved by City Council, all work will be performed by City Public Works.

### **EXHIBITS**:

1. Public Request

- 2. Public Notice
- 3. Location Map
- 4. Photos



### **PUBLIC REQUEST FORM**

Name: Orlando F		1
Address: 1836 Wi	Son Avenue	
Phone:	Email:	
Location: 1900 Wi	Ison Avenue	
		ite parking in front of the building
request.		
		,
	7	
Attachments: Yes	No Description:	
Request Received By: _	Zappiello	Date: April 18, 2018
		Fax Referral:
Assigned To: L. Zapp		Fax Keferral:
Assigned To:	10110	
Notes:		



June 13, 2018

Resident/Property Owner

Subject: TRAFFIC SAFETY COMMITTEE (TSC) ITEM NO. 2018-15

REQUEST TO REMOVE THE EXISTING TIME RESTRICTED PARKING IN FRONT OF THE COMMERCIAL BUILDING LOCATED AT 1900 WILSON AVENUE

Dear Sir/Madame:

The City of National City would like to invite you to our next public Traffic Safety Committee Meeting scheduled for **Wednesday**, **June 20**, **2018**, **at 1:00 P.M**. in the 2<sup>nd</sup> Floor Large Conference Room of the Civic Center Building, 1243 National City Boulevard, to discuss the above-referenced item.

The City Hall is ADA compliance. Please note that there are two disabled persons parking spaces in front of City Hall on the east side of National City that provide direct access on the 2<sup>nd</sup> Floor of City Hall via a pedestrian bridge.

If you have any questions, comments, and/or concerns, please contact the Engineering Department at 619-336-4380 and reference Traffic Safety Committee Item Number 2018-15.

Sincerely,

Stephen Manganiello

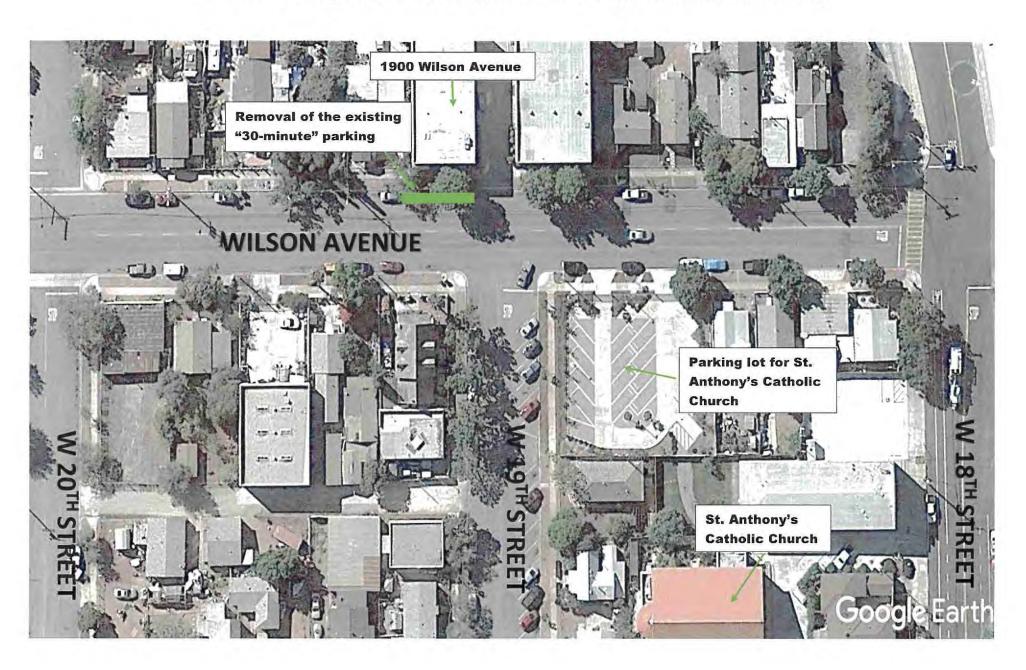
typhon 7. Marganiello

City Engineer

SM:Iz

**Enclosure: Location Map** 

### Location Map with Existing Conditions (TSC Item: 2018-14)





Location of requested removal of the existing time restricted parking located at 1900 Wilson Avenue (looking west)



Location of requested removal of the existing time restricted parking located at 1900 Wilson Avenue (looking south)

#### RESOLUTION NO. 2018 -

#### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE REMOVAL OF TWO 30-MINUTE TIME-RESTRICTED PARKING SPACES IN FRONT OF THE BUILDING LOCATED AT 1900 WILSON AVENUE

WHEREAS, an area resident, has requested the removal of two underutilized 30-minute time-restricted parking spaces in front of the vacant building located at 1900 Wilson Avenue, on the west side of the intersection of Wilson Avenue and West 19th Street to alleviate some of the parking impacts by providing additional unrestricted parking for area residents; and

WHEREAS, after a site evaluation, staff recommended to the Traffic Safety Committee that the two existing 30-minute time-restricted parking in front of the building located at 1900 Wilson Avenue be removed; and

WHEREAS, at its meeting on June 20, 2018, the Traffic Safety Committee approved staff's recommendation to remove two existing 30-minute time-restricted parking spaces in front of the building located at 1900 Wilson Avenue.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City hereby authorizes the removal of two 30-minute time restricted parking spaces in front of the building located at 1900 Wilson Avenue to provide additional unrestricted parking for area residents.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Temporary Use Permit – Pumpkin Station hosted by Pinery Christmas Trees, Inc. at Westfield Plaza Bonita Mall from September 28, 2018 thru October 31, 2018 with no waiver of fees. (Neighborhood Services)

### CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018 AGENDA ITEM NO .: ITEM TITLE: Temporary Use Permit – Pumpkin Station hosted by Pinery Christmas Trees, Inc. at Westfield Plaza Bonita Mall from September 28, 2018 thru October 31, 2018 with no waiver of fees. DEPARTMENT: Neighborhood Services
APPROVED BY: PREPARED BY: Dionisia Trejo PHONE: 619-336-4255 **EXPLANATION:** This is a request from Pinery Christmas Trees to host the annual Pumpkin Station at Plaza Bonita Mall from September 28, 2018 thru October 31, 2018. Daily hours will be from 9 a.m. to 9 p.m. Pumpkin Station will be located on the eastside parking lot #7 of the mall adjacent to Ring Road. This event is a pumpkin patch and a children's carnival combined catering to children between the ages of 2-9. Event will include a kid's play center and several rides, an inflatable pumpkin jump and a petting zoo. Plaza Bonita Mall security will be used during event hours. Note: This is the 15th year for the Pumpkin Station at Plaza Bonita Mall. FINANCIAL STATEMENT: APPROVED: \_\_\_\_\_ FINANCE ACCOUNT NO. APPROVED: MIS City fee of \$237.00 for processing the TUP, plus \$1,100.00 for Fire permits. Total fees: \$1,337,00 **ENVIRONMENTAL REVIEW:** N/A ORDINANCE: INTRODUCTION | FINAL ADOPTION STAFF RECOMMENDATION: Approve the Application for a Temporary Use Permit subject to compliance with all conditions of approval with no waiver of fees or in accordance to City Council Policy 802. **BOARD / COMMISSION RECOMMENDATION:** ATTACHMENTS: Application for a Temporary Use Permit with recommended approvals and conditions



City of National City ■ Neighborhood Services Department 1243 National City Boulevard ■ National City, CA 91950 (619) 336-4364 ■ fax (619) 336-4217 www.nationalcityca.gov

### **Special Event Application**

Type of Event			
☐ Fair/Festival	☐ Parade/March ☐	☐ Walk or Run ☐ Concert/Perform	nance
■ TUP	☐ Sporting Event [	Other (specify)	
Event Name &			
Event Title Pumpk			
Event Location (lis	t all sites being requested)	Westfield Plaza Bonita	
<b>Event Times</b>			
Set-Up Starts Date <u>9/7/18</u>	Time	Day of Week	
Event Starts Date <u>9/28/18</u>	9:00 am	Day of Week Friday	
Event Ends Date <u>10/31/18</u>	Time 9:00 pm	Day of Week	RECEIVED
Breakdown Ends Date <u>11/5/18</u>	Time 5:00 pm	Day of Week Monday	JUN 27 2018  Neighborhood Services Department City of National
Applicant Inform	mation	L	City of National City
Applicant (Your nai	me) Norm Osborne	Sponsoring Organization Pinery	Christmas Trees
Event Coordinator	(if different from applicant)	Michael Osborne	
Mailing Address	0665 Brookview Lane, San I	Diego, CA. 92131	
Day Phone858-56	6-7466 After Hours Phon	e <u>same</u> Cell <u>858-688-170</u>	1_Fax_none
		_ E-mailesan.rr.com	
rom and against ar (including attorney's f may incur, sustain or podily injury to or de nvitees of each party	ny and all loss, damage, lia fees) and causes of action of a be subjected to on account o ath of any persons (including	and hold harmless the City, its officers, ebility, claims, demands, detriments, costany character which the City, its officers, etc. floss or damage to property or the loss but not limited to the employees, subcomy way connected to the occupancy, enjoymitted by law.	ets, charges, expense employees and agents of use thereof and for contractors, agents and
City's Finance Depart	ment 48 hours prior to the ever r application processing and fa	mplicate fees for City services, which will he nt set-up. The undersigned also understa cility use and that fees and charges are a	inds and accents the
Signature of Applica	ant: John (	Jan Dat	e 6/26/18
	100		49

Special Event Application (continued) Please complete the following sections with as much detail as possible since fees and requirements are based on the information you provide us.
Fees/Proceeds/Reporting
Is your organization a "Tax Exempt, nonprofit" organization? Yes  No
Are admission, entry, vendor or participant fees required? Yes ☐ No ■
If YES, please explain the purpose and provide amount (s):
\$\frac{150,000}{\text{event.}}\$ Estimated Gross Receipts including ticket, product and sponsorship sales from this event. \$\frac{125,000}{\text{Estimated Expenses for this event.}}\$  What is the projected amount of revenue that the Nonprofit Organization will receive as a result of this event?
Description of Event
☐ First time event ☐ Returning Event ☐ include site map with application
Note that this description may be published in our City Public Special Events Calendar:  Pumpkins, Kiddie Rides & Games far  Children ages 2-9 years old.

Anticipated # of Participants: \_\_\_\_\_ Anticipated # of Spectators: \_\_\_\_\_

Estimated Attendance

### Traffic Control, Security, First Aid and Accessibility

Requesting to close street(s) to vehicular traffic? Yes □ No ■
List any streets requiring closure as a result of the event (provide map):
Date and time of street closure: Date and time of street reopening:
Other (explain)
Requesting to post "no parking" notices? Yes □ No ■
Requested "No Parking" on city streets and/or parking lots (list streets/parking lots) (provide map):
Other (explain)
Security and Crowd Control
Depending on the number of participants, your event may require Police services.
Please describe your procedures for both Crowd Control and Internal Security:
Mall security as needed.
United Volument Drofessional Constitute handle
Have you hired Professional Security to handle security arrangements for this event?
Yes ☐ No ■ If YES, name and address of Security Organization
Security Director (Name):Phone:
If using the services of a professional security firm AND the event will occur on City property, please provide a copy of its insurance certificate, evidencing liability with limits of at least \$1 Million dollars per occurance/\$2 Million dollars aggregate, as well as and additional insured endorsement naming the City of National City, its officers, employees, and agents as additional insureds. Evidence of insurance must be provided by the vendor or its insurer to the City's Risk Manager for review and approval prior to the event.
Is this a night event? Yes Mo I If YES, please state how the event and surrounding area will be illuminated to ensure safety of the participants and spectators: We use halogens, string lights and
light towers.

### First Aid

Depending on the number of	f partic	ipants, yo	our event	may red	quire specific F	irst Aid se	ervices.
First aid station to be staffed	by ev	ent staff?	Yes 🗆	No 🔳 i	First aid/CPR c	ertified?	Yes□ No□
$\square$ First aid station to be sta	ffed by	professio	nal com	pany. ▶	Company		
Accessibility							
Please describe your Acces We have 5 Handlcap Parkir	•						isab <b>i</b> lities:
						. *	
			· ·				
Elements of your Even	t						
Setting up a stage? Yes	□ No						
Requesting City's PA sy	stem						
Requesting City Stage; i	if yes, v	which size	? 🗌 [	Dimensio	ns (13x28) 🔲	Dimens	ions (20x28)
☐ Applicant providing own	stage	<b>&gt;</b>		(Di	mensions)		
Setting up canopies or ter	ıts?						
# of canopies	size		_				
4 # of tents	size	20 X 40	_				
☐ No canopies/tents being	set up						
Setting up tables and chai	rs?						
☐ Furnished by Applicant o	r Cont	ractor			_		
# of tables		No table	s being :	set up			
# of chairs		No chair	s being :	set up			
☐ (For City Use Only) Spor	sored	Events –	Does no	t apply to	o co-sponsored	d events	
# of tables		No table	s being	set up			
# of chairs		No chair	s being :	set up			
Contractor Name					****	-	
Contractor Contact Informat	ion Addr	200			City/State	ומ	hone Number
	maul				Julyrolate	r i	ISSIS FIGHTION

Setting up other equipment?
☐ Sporting Equipment (explain)
Other (explain)
☐ Not setting up any equipment listed above at event
Having amplified sound and/or music? Yes □ No ■
☐ PA System for announcements ☐ CD player or DJ music
☐ Live Music ► ☐ Small 4-5 piece live band ► ☐ Large 6+ piece live band
Other (explain)
If using live music or a DJ. ► Contractor Name
Address City/State Phone Number
Using lighting equipment at your event? Yes No 🔳
Bringing in own lighting equipment
☐ Using professional lighting company ► Company Name
Address City/State Phone Number
Using electrical power? Yes ■ No □
■ Using on-site electricity ☐ For sound and/or lighting ☐ For food and/or refrigeration
☐ Bringing in generator(s) ☐ For sound and/or lighting ☐ For food and/or refrigeration
Vendor Information
PLEASE NOTE: You may be required to apply for a temporary health permit if food or beverages are sold of given away during your special event. Also see 'Permits and Compliance' on page 8 in the Special Event Guide. For additional information on obtaining a temporary health permit, please contact the County of San Diego Environmental Health at (619) 338-2363.
Having food and non-alcoholic beverages at your event? Yes 🔲 No 🔳
☐ Vendors preparing food on-site ► # ► Business License #
If yes, please describe how food will be served and/or prepared:
If you intend to cook food in the event area please specify the method:  GAS ELECTRIC CHARCOAL OTHER (Specify):
☐ Vendors bringing pre-packaged food ► # ► Business License #
☐ Vendors bringing bottled, non-alcoholic beverages (i.e., bottled water, can soda, etc.) ► #
☐ Vendors selling food # ► Business License #(s)
Uendors selling merchandise # ► Business License #(s)

Food/beverages to be handled by organization	kilon, no duiside vendors
☐ Vendors selling services # ► Bu	siness License #(s)
► Explain services	<u> </u>
☐ Vendors passing out information only (no b	usiness license needed) #
► Explain type(s) of information	
No selling or informational vendors at event	t .
Having children activities? Yes ■ No□	
requires commercial liability insurance with lim dollars aggregate. In addition, the City of Natio pursuant to a separate endorsement, which sh Risk Manager, along with the Certificate of Insu should be filed out at least one week prior to the	are provided at the event, The City of National City its of at least \$1 Million dollars per occurrence/\$2 Million nal City must be named as an Additional Insured all be provided by the vendor or its insurer to the City's urance, for approval prior to the event. The application is event. There is a \$25 fee to process the permit of the "Facility Use Application", please contact the 336-4580.
Inflatable bouncer house #	Rock climbing wall Height
	Arts & crafts (i.e., craft making, face painting, etc.)
Other	
Having fireworks or aerial display? Yes 🗌	No 🗏
	Duration
	Max. size
PLEASE NOTE: In the event fireworks or ano National City requires commercial liability insur occurrence/ \$4 Million dollars aggregate. In additional Insured pursuant to a separate endoinsurer to the City's Risk Manager, along with tevent. Depending on the size and/or nature of	ther aerial display is planned for your event, The City of rance with limits of at least \$2 Million dollars per dition, the City of National City must be named as an orsement, which shall be provided by the vendor or its he Certificate of Insurance, for approval prior to the the fireworks display, the City reserves the right to also obtain a fireworks permit from the National City Fire
Arranging for media coverage? Yes□ No	· •
Yes, but media will not require special set-u	qu
Yes, media will require special set-up. Des	cribe

#### **Event Signage**

PLEASE NOTE: For City sponsored or co-sponsored events, banners publicizing the event may be placed on the existing poles on the 1800 block and 3100 block of National City Boulevard. The banners must be made to the City's specifications. Please refer to the City's Special Event Guidebook and Fee Schedule for additional information.

Are you planning to have signage at your event? Yes Mo
Yes, we will post signage # 1 Dimensions 4 X 8
☐ Yes, having inflatable signage # ► (complete Inflatable Signage Request form)
☐ Yes, we will have banners #
☐ What will signs/banners say?
How will signs/banners be anchored or mounted?
Waste Management
PLEASE NOTE: One toilet for every 250 people is required, unless the applicant can show that there are <u>sufficient</u> facilities in the immediate area available to the public during the event.
Are you planning to provide portable restrooms at the event? Yes . No .
If yes, please identify the following:
► Total number of portable toilets: 4
► Total number of ADA accessible portable toilets: 1
Contracting with portable toilet vendor. Diamond Environmental 760-744-7191
► Load-in Day & Time Daily Company Phone  Load-out Day & Time
■ Portable toilets to be serviced. ► Time Daily
Set-up, Breakdown, Clean-up
Setting up the day before the event?
Yes, will set up the day before the event.
☐ No, set-up will occur on the event day
Requesting vehicle access onto the turf?
Yes, requesting access onto turf for set-up and breakdown (complete attached Vehicle Access Request form)
No, vehicles will load/unload from nearby street or parking lot

NPDES-Litter Fence
City to install litter fence
Applicant to install litter fence
■ N/A
Breaking down set-up the day after the event?
☐ Yes, breakdown will be the day after the event. ▶ # of breakdown day(s)
☐ No, breakdown will occur on the event day.
How are you handling clean-up?
Using City crews     ■
Using volunteer clean-up crew during and after event.
☐ Using professional cleaning company during and after event.
Miscellaneous
Please list anything important about your event not already asked on this application:

Please make a copy of this application for your records.

We do not provide copies.



I. Special Event Information

for ADA compliant portable toilets)

from entering?

### **Special Events**

### Pre-Event Storm Water Compliance Checklist

X

X

Name of Special Event: Pumpkin Station	THE STATE OF THE S			
Event Address: 3030 PLaza Bonita Rd	Expected # of Attendees:			
Event Host/Coordinator: Michael Osborne	Phone Number: 85	r: 858-688-1701		
II. Storm Water Best Management P	YES	NO	N/A	
	YES	NO	N/A	
		f	1	
Will enough trash cans provided for the event?				
Will enough trash cans provided for the event?  Provide number of trash bins: $8$	x			
	X			
	X			

Will all portable toilets have secondary containment trays? (exceptions

Do all storm drains have screens to temporarily protect trash and debris

Are spill cleanup kits readily available at designated spots?

<sup>\*</sup> A Post-Event Storm Water Compliance Checklist will be completed by City Staff.

### **City of National City**

## PUBLIC PROPERTY USE HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

Persons requesting use of City property, facilities or personnel are required to provide a minimum of \$1,000,000 combined single limit insurance for bodily injury and property damage which includes the City, its officials, agents and employees named as additional insured and to sign the Hold Harmless Agreement. Certificate of insurance must be attached to this permit. The insurance company issuing the insurance policy must have a A.M. Best's Guide Rating of A:VII and that the insurance company is a California admitted company; if not, then the insurance policy to the issuance of the permit for the event. The Certificate Holder must reflect:

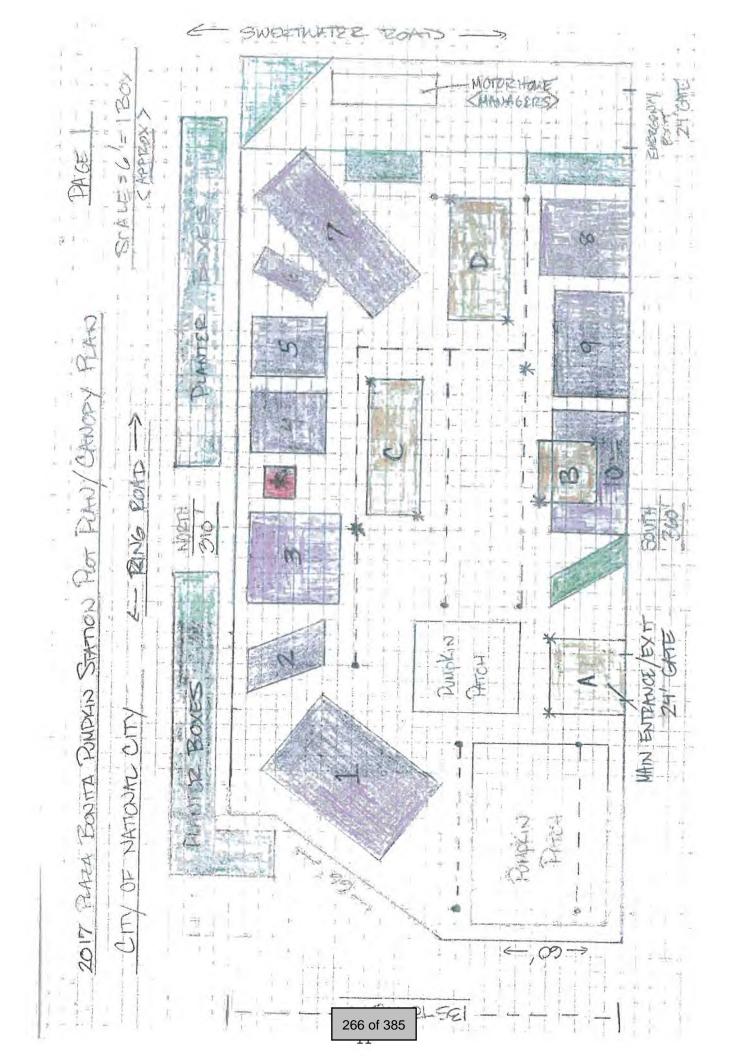
City of National City Risk Management Department 1243 National City Boulevard National City, CA 91950

Organiza	Pinery Christmas Trees, Inc., dba Pumpkin Station	
	n Charge of Activity: Michael Osborne	
	10665 Brookview Lane, San Diego, CA. 92131	
	ne:Date(s) of Use:	_

#### HOLD HARMLESS AGREEMENT

As a condition of the issuance of a temporary use permit to conduct its activities on public or private property, the undersigned hereby agree(s) to defend, indemnify and hold harmless the City of National City and the Parking Authority and its officers, employees and agents from and against any and all claims, demands, costs, losses, liability or, for any personal injury, death or property damage, or both, or any litigation and other liability, including attorneys fees and the costs of litigation, arising out of or related to the use of public property or the activity taken under the permit by the permittee or its agents, employees or contractors.

Signature of Applicant:		
Official Title:	Date:	
For Office Use Only		
Certificate of Insurance Approved	Date	



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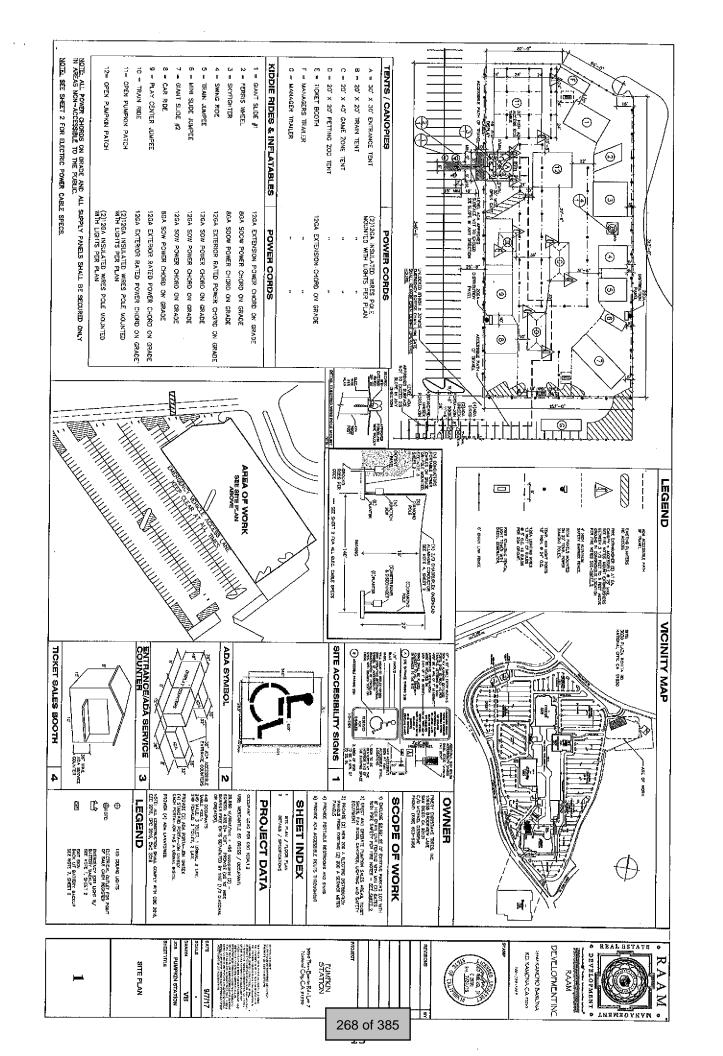
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- Eroks/Harry ES

- CANDERS

- LANER BOXES





Westfield Plaza Bonita 3030 Plaza Bonita Road Suite 2075 San Diego, CA 91950 T (619) 267-2850 F (619) 472-5652

June 18, 2018

City of National City
Attention: Vianey Rivera
Neighborhood Services Division
1243 National City Boulevard
National City, California 91950-4301

Re:

Temporary Use Permit

Pumpkin Station - Westfield Plaza Bonita

Dear Ms. Rivera:

I hereby authorize Norm Osborne, acting as representative of Pinery Christmas Trees, Inc., to operate a business known as Pumpkin Station in parking lot #7 at Westfield Plaza Bonita during the dates of September 7, 2018 – November 5, 2018.

Norm Osborne has permission to install temporary power to poles in parking lot #7 to provide power during the temporary use time if adequate power is not already in place.

Norm Osborne will obtain all necessary permits from National City for occupancy at Westfield Plaza Bonita.

Please feel free to call me if you have any questions at 619.267.2850.

Thank you

Jessica O'Brien

General Manager

Westfield Plaza Bonita

Cc: retailers file



# CITY OF NATIONAL CITY NEIGHBORHOOD SERVICES DEPARTMENT APPLICATION FOR A TEMPORARY USE PERMIT RECOMMENDATIONS AND CONDITIONS

SPONSORING ORGANIZATION: Pinery Christmas Trees

**EVENT: Pumpkin Station** 

DATE OF EVENT: September 28, 2018 thru October 31, 2018

APPROVALS:			
DEVELOPMENT SERVICES	YES [x]	NO [ ]	SEE CONDITIONS [ ]
RISK MANAGER	YES [x]	NO [ ]	SEE CONDITIONS [x]
PUBLIC WORKS	YES [x]	NO [ ]	SEE CONDITIONS
FINANCE	YES [x]	1 ОИ	SEE CONDITIONS [ ]
FIRE	YES [x]	NO [ ]	SEE CONDITIONS [x1
POLICE	YES [x]	1 ОИ	SEE CONDITIONS [x]
CITY ATTORNEY	YES [x]	NO[]	SEE CONDITIONS [x]
COMMUNITY SERVICES	YES [x]	NO [ ]	SEE CONDITIONS [ ]
NEIGHBORHOOD SERVICES	YES [x]	NO [ ]	SEE CONDITIONS [x]

#### **CONDITIONS OF APPROVAL:**

#### **DEVELOPMENT SERVICES** (619) 336-4318

#### Building

Pumpkin Station submitted the same approved plan from last year - No concerns.

#### **Planning**

No comments

#### Engineering

No comments

#### POLICE DEPARTMENT

The police department has received this event annually with no previous reported incidents. This event is normally monitored by the Plaza Bonita Security. The police department will provide extra patrol as time permits.

#### **CITY ATTORNEY**

Approved on condition that Risk Manager approves.

#### **COMMUNITY SERVICES**

No involvement

#### **NEIGHBORHOOD SERVICES**

Neighborhood Notifications – Events are required to notify residents and/or businesses of the surrounding impacted areas by the event. The notice shall include the name of the event, name and phone number of the company/organization producing the event, the dates and times of the event (including set-up and breakdown) and a detailed description of how the residents and/or businesses may be affected, such as by street closures, "No Parking" signs being posted, music at the event, etc.

#### **RISK MANAGER** (619) 336-4370

Risk Management has reviewed the above captioned application for the issuance of a Temporary Use Permit. In as much as the event will held solely on private property there will be no additional insurance requirements necessary for the issuance of the permit.

It should be noted that the Hold Harmless and Indemnification Agreement were properly executed by the applicant at the time the Special Event Application was submitted.

#### **PUBLIC WORKS** (619)366-4580

No involvement

#### **FINANCE**

Pumpkin Station has a current business license. Finance/Business License has no further stipulations.

#### INSPECTION REQUIRED

## \$500.00 FEE FOR CARNIVALS, \$400.00 FEE FOR CANOPIES PLUS AN ADDITIONAL \$200.00 INSPECTION FEE FOR INSPECTIONS OCCURING AFTER HOURS OR ON WEEKENDS OR HOLIDAYS

Stipulations required by the Fire Department for this event are as follows:

- 1) Access to the area to be maintained at all times.
- 2) Fire Department access into and through the booth areas are to be maintained at all times. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 14 feet.
- 3) Participants on foot are to move immediately to the sidewalk upon approach of emergency vehicle(s).
- 4) Vehicles in roadway are to move immediately to the right upon approach of emergency vehicle(s).
- 5) Fire hydrants and fire department connections shall not be blocked or obstructed at any time.
- 6) Exit to be maintained in an obstructed manner at all times. Exit way to be clear of all obstructions.
- 7) Exits to be posted EXIT.
- 8) No open flames or smoking inside or adjacent to the tent/canopy. Signs to be posted NO SMOKING.
- 9) Extinguishers to be mounted in a visible location between 3½ to 5' from the floor to the top of the extinguisher. Maximum travel distance from an extinguisher shall not be more than 75 feet travel distance. All fire extinguishers to have a current State Fire Marshal Tag attached. Extinguishers shall be mounted in conspicuous area inside tent or canopy. Please see attached example.
- 12) Automobiles and other internal combustion engines shall be a minimum distance of twenty feet (20) from all tents and canopies.
- Any electrical power used is to be properly grounded and approved by the Building Official. Extension cords shall be used as "temporary Wiring" only.

- 14) Internal combustion power sources that may be used for "Light Towers" shall be of adequate capacity to permit uninterrupted operation during normal operating hours
- 15) Internal combustion power sources shall be isolated from contact with the public by either physical guards, fencing or an enclosure
- 16) If tents or canopies are used, tents having an area in excess of 200square feet and or canopies in excess of 400 square feet or multiple tents and or canopies placed together equaling or greater than the above stated areas, are to be used, they shall be flame-retardant treated with an approved State Fire Marshal seal attached. A ten feet separation distance must be maintained between tents and canopies. A permit from the Fire Department must be obtained. Cooking shall not be permitted under tents or canopies unless the tents or canopies meet "State Fire Marshal approval for cooking. Certificate of State Fire Marshal flame spread shall be provided to the National City Fire Department if applicable.

#### <u>Canopies:</u>

#### Tents:

- 17) Bales of Straw and Corn Stalks shall meet the requirements for "Flame Propagation and Flame Spread". Proof of product used shall be furnished to the National City Fire Department prior to opening day. An inspection and test on materials used will be required prior to opening day
- 18) A fire safety inspection is to be conducted by the Fire Department prior to operations of the carnival to include all rides, cooking areas, game booths, etc.
- 18) Fees can only be waived by City Council.
- 19) First Aid will be provided by organization

Note: Organizer shall contact the National City Fire Department for cost associated with this event

The following page(s) contain the backup material for Agenda Item: Public Hearing and adoption of an Ordinance of the City Council of the City of National City amending National City Municipal Code Title 13, Section 13.22.060, Subsection "A" pertaining to public improvement requirements for single building permits. (Eng

## CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018 AGENDA ITEM NO.

Public Hearing and adoption of an Ordinance of the City Cou National City Municipal Code Title 13, Section 13.22.060, Su improvement requirements for single building permits.			ending
PREPARED BY: Luca Zappiello, Junior Engineer – Civil PHONE: 619-336-4360  EXPLANATION: See attached.	DEPARTMENT: APPROVED BY:	Engineering/Publi	c Works
FINANCIAL STATEMENT:	APPROVED:		Finance
ACCOUNT NO.	APPROVED:		MIS
N/A			
ENVIRONMENTAL REVIEW: N/A  ORDINANCE: INTRODUCTION: FINAL ADOPTION:			
STAFF RECOMMENDATION:			
Provide second reading and adopt Ordinance of the City Cou National City Municipal Code Title 13, Section 13.22.060, Su BOARD / COMMISSION RECOMMENDATION:		f National City ame	ending
ATTACHMENTS:  1. Explanation w/ Attachment (A) 2. Ordinance			

#### **Explanation**

Title 13, Section 13.22.060, Subsection "A" of the City of National City Municipal Code defines public improvement requirements for single building permits, including the type and maximum dollar threshold of public improvements and exemptions.

Engineering staff recommends that the City Council amend Title 13, Section 13.22.060, Subsection "A" to expand the types of exemptions in an effort to reduce the financial burden on property owners and expedite the permit process for lower building valuation projects, such as minor additions to single-family dwellings (e.g. garages, patios, swimming pools). The proposed revisions are shown in Attachment "A".

On July 3, 2018 the City Council held a public hearing and introduction of the Ordinance. One National City business owner spoke in support of the item. The City Council did not direct any changes to the proposed Ordinance recommended by City staff.

#### Chapter 13.22 - STREET IMPROVEMENTS

#### Sections:

#### 13.22.060 - Work required—<u>Exclusions</u>Exemptions—Conveyance of property.

- A. \_\_1. Portland cement concrete curbs, gutters, drivewaysdriveway aprons, pedestrian curb ramps (in nonresidential areas only), sidewalks, and one-half width of local street permanent paving shall be constructed along all contiguous street frontages, including replacement of all damaged or broken public improvements, except where such damages have been determined by the city engineer to have been caused by city-owned street trees. Such work to be done shall not exceed, in costs, ten percent of the valuation of the building improvement permits as determined by the director of building and housing, official.
  - 2. Additional exemptions to the requirements of this Chapter, are as follows:
    - Single-building permits with a valuation, as estimated by the building official, of tenone hundred thousand dollars or less, and permits;
    - b. Permits for signs only, are excluded from the requirements of this chapter, as are permits;
    - c. Permits for new construction and/or tenant improvements that do not increase occupancy for persons or vehicles;
    - d. Permits for construction of accessory structures for single-family dwellings such as garages, swimming pools, decks or patios; and
    - a.e. Permits for work required to repair a property after an accident, natural disaster, or act of God. Repair in this instance is defined as that work necessary to return the property to its conditions it existed just prior to the accident, natural disaster, or act of God.
  - 23. In all cases, such building permit valuations shall be the sum of all such valuations shown on all building permits issued for that property within the immediately preceding twenty-four-month period, as determined by the director of building and housing official.

#### ORDINANCE NO. 2018 - 2449

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AMENDING NATIONAL CITY MUNICIPAL CODE TITLE 13, SECTION 13.22.060, SUBSECTION "A", PERTAINING TO PUBLIC IMPROVEMENT REQUIREMENTS FOR SINGLE BUILDING PERMITS

WHEREAS, to encourage property owners to make improvements to real property, the City Council desires to amend Section 13.22.060, Subsection "A", of the National City Municipal Code to reduce the time and financial burden to property owners by expanding the exemptions to the requirements for obtaining building permits for projects under \$100,000 (e.g. garages, patios, swimming pools); and

WHEREAS, amending Section 13.22.060, Subsection "A", will make the City's permit requirements consistent with other cities in San Diego County, such as the City of San Diego and Escondido who recently enacted similar changes; and

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code.

BE IT ORDAINED by the City Council of the City of National City as follows:

**Section I**. That the Table of Contents for Chapter 13.22 of the Municipal Code is amended to read as follows:

#### Sections:

13.22.010	Definitions.
13.22.020	Standards—Compliance required—Additional authorized when.
13.22.030	Compliance required—City engineer administration authority.
13.22.040	Record keeping, agreements, and bond requirements.
13.22.050	Building permit—Issuance prerequisites.
13.22.060	Work required—Exemptions—Conveyance of property.
13.22.070	Deferrals permitted when—Procedures.
13.22.080	Exemption from compliance granted when.
13.22.090	Appeals—City council authority.
13.22.100	Certificate of occupancy issuance prerequisites.
13.22.110	Defaults.

**Section II.** Section 13.22.060, Subsection "A", of the National City Municipal Code is hereby amended to read as follows:

#### 13.22.060 Work required – Exemptions – Conveyance of property.

A. 1. Portland cement concrete curbs, gutters, driveway aprons, pedestrian curb ramps, sidewalks, and one-half width of local street permanent paving shall be constructed along all contiguous street frontages, including replacement of all damaged or broken public improvements, except where such damages have been determined by the city engineer to have been caused by city-owned street trees. Such work to be done shall not

exceed, in costs, ten percent of the valuation of the building improvement permits as determined by the building official.

- 2. Additional exemptions to the requirements of this Chapter, are as follows:
- a. Single-building permits with a valuation, as estimated by the building official, of one hundred thousand dollars or less;
  - b. Permits for signs only;
- c. Permits for new construction and/or tenant improvements that do not increase occupancy for persons or vehicles;
- d. Permits for construction of accessory structures for single-family dwellings such as garages, swimming pools, decks or patios; and
- e. Permits for work required to repair a property after an accident, natural disaster, or act of God. Repair in this instance is defined as that work necessary to return the property to its conditions it existed just prior to the accident, natural disaster, or act of God.
- 3. In all cases, such building permit valuations shall be the sum of all such valuations shown on all building permits issued for that property within the immediately preceding twenty-four-month period, as determined by the building official.

**Section III.** This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage.

**Section IV**. The City Council declares that the judicial invalidity of any subsection or portion of this Chapter shall not affect the validity of any other remaining section or portion; that the City Council would have adopted each of those remaining portions, notwithstanding any later declared invalidity. If any provision determined invalid under the preceding sentence can either be judicially severed or interpreted in a way that could harmonize it with the remaining provisions, then it may be severed or interpreted and applied so as to give full purpose, meaning, and effect to the remaining provisions of this Chapter.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil Morris-Jones City Attorney	

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City calling and giving notice of the holding of a General Municipal Election to be held on Tuesday, November 6, 2018, for the purpose of submission of a ballot measure to the voters as required by th

## CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018	AGENDA ITEM NO.
Election to be held on Tuesday, November 6, 201	onal City calling and giving notice of the holding of a General Municipal 18, for the purpose of submission of a rent control ballot measure to the the State of California relating to general law cities. (City Clerk)
PREPARED BY: Michael R. Dalla	DEPARTMENT: City Clerk
PHONE: 619-336-4226	APPROVED BY:
EXPLANATION:	
	sh a Program of Residential Rent Control, Including Just Cause for I Creating a Five-Member Rent Board to Administer and Enforce the ay 17, 2018.
notification of certification of a sufficient petition	n contained sufficient valid signatures. As required by the Elections Code, was made at the regular City Council Meeting held on July 17, 2018; a directed preparation of Resolutions necessary to submit the measure to
The proposed Resolution would call and give notice purpose of submitting the initiative measure to the	e of a General Municipal Election to be held on November 6, 2018 for the voters.
	() Coo
FINANCIAL STATEMENT:	APPROVED: Finance
ACCOUNT NO.	APPROVED: MIS
001-402-021-212-000 Elections	
650,000 has been budgeted for our Municipal Elect at this time.	tion. Adding a measure to the ballot may result in additional costs, unkno
ENVIRONMENTAL REVIEW:	
ORDINANCE: INTRODUCTION: FIN	NAL ADOPTION:
STAFF RECOMMENDATION:	
Adopt the Resolution.	
BOARD / COMMISSION RECOMMENDATIO	<u>N:</u>
ATTACUMENTS:	
ATTACHMENTS:	
Resolution.	

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY
CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL
MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018 FOR
THE PURPOSE OF SUBMISSION OF A RENT CONTROL BALLOT MEASURE
TO THE VOTERS AS REQUIRED BY THE PROVISIONS OF THE LAWS
OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES

WHEREAS, pursuant to the authority provided under the California Elections Code, a petition has been filed with the City Council of the City of National City, signed by more than ten (10) percent of the number of registered voters of the City, to submit a proposed ordinance establishing a program of residential rent control, including creation of an independent rent board, and including just cause for eviction protections and rent stabilization provisions; and

WHEREAS, the City Clerk has caused to be examined the records of registration, and it has been determined that the petition was signed by the requisite number of voters, and the petition has been so certified; and

WHEREAS, the City Council is authorized and directed by the Elections Code to submit the proposed ordinance to the qualified voters of the City; and

WHEREAS, pursuant to the Elections Code, the City Council hereby submits the proposed ordinance to the qualified voters of the City at the general municipal election to be held on November 6, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. That pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of National City, California, on Tuesday, November 6, 2018, a General Municipal Election for the purpose of submission of the following ballot measure to the voters:

Shall an ordinance be adopted
establishing a program of residential
rent control, including creation of an
independent rent board, and including
just cause for eviction protections and
rent stabilization provisions?

Yes

No

Section 2. The election hereby called for November 6, 2018, is hereby ordered consolidated with any other election to be held within the City on said date. The election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvasses, results declared, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of Section 10418 of the Elections Code and as specified herein.

Resolution No. 2018 -July 24, 2018 Page Two

The Board of Supervisors of San Diego County and the San Diego County Registrar of Voters are hereby requested to order the consolidation of the municipal election hereby called with any other election to be held within the City on said date, and that said election be held in all respects as if there were only one election.

- Section 3. That the above proposed ordinance to be submitted to the voters is attached hereto as Exhibit "A" and incorporated herein by reference.
- Section 4. That the vote requirement for the measure to pass is a majority (50% + 1) of the votes cast.
- Section 5. That the ballots to be used at the election shall be in form and content as required by law.
- Section 6. That the City Clerk is authorized to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct this election.
- Section 7. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.
- Section 8. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.
- Section 9. That notice of the time and place of holding the election is hereby given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.
- Section 10. That the City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions of the City.

PASSED and ADOPTED this 24th day of July, 2018.

	Ron Morrison, Mayor
ATTEST:	APPROVED AS TO FORM:
Michael R. Dalla, City Clerk	Angil P. Morris-Jones City Attorney

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City ordering the submission of a measure to the qualified voters of the City of National City at the General Municipal Election to be held on November 6, 2018, relating to approval of an Ordinance es

## CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

AGENDA ITEM NO. MEETING DATE: July 24, 2018 ITEM TITLE: Resolution of the City Council of the City of National City ordering the submission of a measure to the qualified voters of the City of National City at the General Municipal Election to be held on November 6, 2018, relating to approval of an Ordinance establishing a program of residential rent control, including creation of an independent rent board, just cause for eviction protections, and rent stabilization provisions. (City Clerk) PREPARED BY: Michael R. Dalla **DEPARTMENT**: City Clerk APPROVED BY: PHONE: 619-336-4226 **EXPLANATION:** An initiative petition titled, "A Measure to Establish a Program of Residential Rent Control. Including Just Cause for Eviction and Rent Stabilization Provisions, and Creating a Five-Member Rent Board to Administer and Enforce the Program" was filed in the City Clerk's office on May 17, 2018. The Registrar of Voters has verified that the petition contains sufficient valid signatures. As required by the Elections Code, notification of certification of a sufficient petition was made at the regular City Council Meeting held on July 17, 2018; adjourned to July 18, 2018. The City Council then directed preparation of Resolutions necessary to submit the measure to voters. The proposed Resolution orders the submission of the measure to the voters at the November 6, 2018 election. APPROVED: FINANCIAL STATEMENT: ACCOUNT NO. APPROVED: MIS 001-402-021-212-000 Elections \$50,000 has been budgeted for our Municipal Election. Adding a measure to the ballot may result in additional costs, unknown at this time. **ENVIRONMENTAL REVIEW:** FINAL ADOPTION: ORDINANCE: INTRODUCTION: STAFF RECOMMENDATION: Adopt the Resolution. **BOARD / COMMISSION RECOMMENDATION:** 

ATTACHMENTS:

Resolution.

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY ORDERING THE SUBMISSION OF A MEASURE TO THE QUALIFIED VOTERS OF THE CITY OF NATIONAL CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2018, RELATING TO APPROVAL OF AN ORDINANCE ESTABLISHING A PROGRAM OF RESIDENTIAL RENT CONTROL, INCLUDING CREATION OF AN INDEPENDENT RENT BOARD, JUST CAUSE FOR EVICTION PROTECTIONS, AND RENT STABILIZATION PROVISIONS

WHEREAS, pursuant to the authority provided under the California Elections Code, a petition has been filed with the City Council of the City of National City, signed by more than ten (10) percent of the number of registered voters of the City, to submit a proposed ordinance establishing a program of residential rent control, including creation of an independent rent board, and including just cause for eviction protections and rent stabilization provisions; and

WHEREAS, the City Clerk has caused to be examined the records of registration, and it has been determined that the petition was signed by the requisite number of voters, and the petition has been so certified; and

WHEREAS, the City Council is authorized and directed by the Elections Code to submit the proposed ordinance to the qualified voters of the City; and

WHEREAS, pursuant to Elections Code, the City Council hereby submits the proposed ordinance to the qualified voters of the City at the general municipal election to be held on November 6, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. That pursuant to the requirements of the laws of the State of California relating to general law cities, the following question shall be submitted to the qualified voters of the City at the General Municipal Election to be held on November 6, 2018:

Shall an ordinance be adopted establishing a program of residential rent control, including creation of an independent rent board, and including	Yes	
just cause for eviction protections and rent stabilization provisions?	No	

- Section 2. That the above proposed ordinance to be submitted to the voters is attached hereto as Exhibit "A" and incorporated herein by reference.
- Section 3. That the vote requirement for the measure to pass is a majority (50% + 1) of the votes cast.
- Section 4. That the ballots to be used at the election shall be in the form and content as required by law.

Resolution No. 2018 -July 24, 2018 Page Two

- Section 5. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct and election.
- Section 6. That the polls for the election shall be open at seven o'clock a.m. of the day of the elections and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Election Code of the State of California.
- Section 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.
- Section 8. That notice of the time and place of holding said election is given and the City Clerk is authorized, instructed, and directed to give such further or additional notice of the election in time, form, and manner as required by law.
- Section 9 That the City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original resolutions of the City.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

#### THE PEOPLE OF NATIONAL CITY ORDAIN AS FOLLOWS:

### THE NATIONAL CITY RENT CONTROL AND COMMUNITY STABILIZATION ORDINANCE

Sec. 1	Title and Purpose.
Sec. 2	Findings.
Sec. 3	Definitions.
Sec. 4	Homeowner Protections.
Sec. 5	Just Cause for Eviction Protections.
Sec. 6	Rental Housing Board.
Sec. 7	Stabilization of Rents; Right of Reasonable Return for Landlords.
Sec. 8	Non-waiverability.
Sec. 9	Judicial Review.
Sec. 10	Remedies.
Sec. 11	Injunctive and Other Civil Relief.
Sec. 12	Partial Invalidity.
Sec. 13	Supersedes.
Sec. 14	Majority Approval, Effective Date, Execution.

#### Sec. 1. Title and Purpose.

This Ordinance shall be known as the National City RENT CONTROL and Community Stability Ordinance. The purpose of this Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in National City by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment and protections for homeowners.

#### Sec. 2. Findings.

The people of National City find and declare as follows:

- (a) In its most recent report on the San Diego County Housing Market Area, the Department of Housing and Urban Development (HUD) described the County's rental housing market as "currently tight" at a vacancy rate of 3.6%, having dropped from a vacancy rate of 5.6% in 2010.
- (b) In a story published October 5, 2017, the San Diego Union Tribune stated that "average rent in San Diego County hit a record high of \$1,875 last month, continuing more than six years of rising rents in a tight housing market."
  - (c) According to the US Census Bureau American Community Survey:
    - Renters make up 68.1% of all occupied housing units in National City.
    - National City presently has the lowest median gross rent of any incorporated city within San Diego County

**EXHIBIT A** 

### Certification:

I, Irvin Martinez, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Irvin Martinez

Dated this \_\_\_\_\_\_ day of February, 2018

Mantin

- The median gross rent for rental housing units in National City increased
   16.6% in one year, from \$980 in 2015 to \$1143 in 2016.
- The share of renter households in National City that experience "housing cost burden", that is, pay at least 30% of their household income in gross rent, is 62.6.%.
- The share of households that suffer from "severe housing cost burden", or pay at least half of their household income in gross rent, is high and increasing. This situation now affects 31.3% of renter households, having increased from 23.5% of such households in 2007.
- The share of households that moved into their home before 2010 decreased from 52.8% in 2015 to 37.2% in 2016, indicating that long term National City residents are moving out of the homes they have lived in for years or even decades.
- (d) Members of community organizations have met with Members of the National City Council to discuss the problem of tenants experiencing large rent increases and to urge the City Council to take action to impose reasonable limits on rent increases.
- (e) Community organizations organized a public Housing Forum at St. Anthony's Church in National City to discuss the issues of large rent increases and evictions with tenants, community members and elected officials on December 14<sup>th</sup>, 2017.
- (f) The people of the National City find and declare that excessive rental increases could result in the displacement of low-income to moderate-income families.
- (g) Without adequate, reasonable, rationally-related controls on rent increases and other rent stabilization measures, along with just cause for eviction protections, certain aspects of public peace, health, or safety in the National City are at risk. It is in the interest of the City, of owners and residents of rental units, and of the community as a whole that the City enact regulations to protect and promote housing affordability within the City including, but not limited to, rent stabilization and just cause for eviction regulations.
- (h) In light of the numerous concerns noted herein, including, but not limited to, the current and immediate threat to the health, safety, and welfare of the City's residents and the adverse impacts that would result from a substantial decrease of housing affordability within the City, the People of National City determine that it is in the interest of immediately preserving the public health, safety and general welfare to adopt this Ordinance in order to allow staff to put into place, among other things, regulations to protect affordable housing within the City, just cause for eviction policies, and rent stabilization.
- (i) Rent stabilization has been adopted in a dozen jurisdictions in California and has long been upheld as constitutional by the California Supreme Court. Many cities with rent control are exploring ways to strengthen and expand tenant protections.
- (j) This Ordinance shall supersede any ordinance passed by the National City Council covering the area of rents or evictions.

### Sec. 3. Definitions.

The following words or phrases as used in this Amendment shall have the following meanings:

- (a) Annual Allowable Rental Adjustment: "Annual Allowable Rental Adjustment" refers to the limit on the Maximum Allowable Rent increase, which a Landlord may charge on any Controlled Rental Unit each year without order from a hearing officer.
- (b) <u>Base Rental Rate</u>: The term "Base Rental Rate", shall refer to the legal rental rate, from which the Allowable Rental Adjustment is made. Each covered unit will have new Base Rental Rate each year, which the rental rate legally applicable to the unit at the time that the new Allowable Rental Rate is published by the Rent Board. The Base Rental Rate for the first year this Ordinance is enacted by the voters shall be the rental rate legally applicable to each covered unit at the Publishing of this Ordinance.
- (c) <u>Publishing of this Ordinance</u>: The term "Publishing of this Ordinance" shall refer to the publishing of the title and summary of this ordinance as required by the Election Code at 9205.
- (d) Rent Board: The term "Rent Board" refers to the National City Rental Board established by this Ordinance.
  - (e) Disabled: A person with a "disability" as defined in Govt. Code Section 12955.3.
- (f) <u>Controlled Rental Units</u>: All Residential Rental Units in National City, except those Rental Units exempt under one or more of the following provisions:
  - (1) Rental Units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of fewer than fourteen (14) days.
  - (2) Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education.
  - (3) Rental Units which applicable federal or state law or administrative regulation specifically exempt from municipal rent control.
  - (4) Any units exempted by the Homeowner Protections in Section 4.
  - (5) Rental Units where the owner is a non-profit and the rental rates are set at or below the rates set by a tax credit program, or the rental rates are set at or below rates in an "assisted housing development," as defined at Government Code section 65863.10; provided that upon the termination of the rent regulation by a tax credit program or assisted housing development program after the date of the publication of this ordinance, the provisions of this Ordinance shall apply and the Base Rental Rate shall be the amount set prior to such termination.

- (a) Housing Services: Housing Services include, but are not limited to, repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, utilities that are paid by landlord, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, and any other benefit, privilege or facility connected with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the building in which the Rental Unit is contained.
- (b) <u>Landlord</u>: An owner, lessor, sublessor or any other person entitled to receive rent for the use and occupancy of any Rental Unit, or an agent, representative or successor of any of the foregoing.
- (c) <u>Maximum Allowable Rent:</u> The maximum allowable rent which may be charged on any Controlled Rental Unit covered by this Ordinance.
- (d) <u>Primary Residence</u>: Occupancy of a Primary Residence does not require that the individual be physically present in the unit at all times or continuously, but the unit must be the individual's usual place of return. Factors that are indicative of Primary Residence include:
  - (1) the individual carries on basic living activities at the subject premises for extended periods;
  - the subject premises are listed with other public agencies, including federal, state and local taxing authorities as their primary residence;
  - (3) Utilities are billed to and paid by the individual at the subject premises;
  - (4) Homeowner's tax exemption for the individual has not been filed for a different property;
  - (5) The individual is not registered to vote at any other location;
  - (6) Ownership must be held in the name of the individual claiming Primary Residence and not held by a Limited Liability Corporation or other corporate structure. Ownership can be in the form of a trust, fee simple or other form of ownership, so long as the there is not a legal entity distinct from the natural person owner, and the natural person owner has a substantial ownership interest in the property;
  - (7) Other relevant factors illustrating Primary Residence.
- (e) <u>Property</u>: All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.
- (f) Rent: All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement concerning the use or

occupancy of a Rental Unit and premises and attendant Housing Services, including all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting. Landlord under a Rental Housing Agreement, as defined in this Section, concerning the use or occupancy of a Rental Unit and premises, including all payment and consideration demanded or paid for parking, utilities, pets, furniture, subletting and security deposits for damages and cleaning.

- (g) Rental Housing Agreement: An agreement, oral, written or implied, between a Landlord and Tenant for use or occupancy of a Rental Unit and for Housing Services.
  - (h) Rental Housing Fee: The fee described in Section 6(m)(1).
- (i) Rental Unit: Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant.
- (j) Recognized Tenant Organization: Any group of Tenants residing in Rental Units in the same building or in different buildings operated by the same management company, agent or Landlord, who choose to be so designated.
  - (k) Rounding: Numbers will be rounded using the "half away from zero" method.
- (I) <u>Single-Family Home</u>: A detached building containing a single residential dwelling unit separately alienable from any other dwelling unit.
- (m) <u>Temporary Tenancy:</u> The tenancy in a Single-Family Home, which is the primary residence of the Homeowner and does not last any longer than 12 consecutive months. A written contract must be provided to tenant at the inception of the tenancy, which includes a notice that the tenancy shall terminate in no more than 12 months when the owner shall return to the Single Family Home to reoccupy.
- (n) <u>Tenant</u>: A Tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Housing Agreement to the use or occupancy of any Rental Unit.
  - (o) <u>Utility Charges</u>: Any charges for gas, electricity, water, cable or internet.

### Sec. 4. Homeowner Protections.

- (a) Homeownership is of great importance to the residents of National City. Nothing in this Ordinance shall prevent the following if the single-family home is the primary residence of the homeowner.
  - (1) <u>Granny-Flats, and Duplexes</u>. A unit will be exempt from this Ordinance if it is one of two units (and only two units) on the same parcel, and one of the units is occupied by a natural person owner as a Primary Residence.

- (2) Renting of a Room, Unregulated. The tenancy where the tenant shares a bathroom or kitchen with the homeowner shall be exempt from this Ordinance if the single-family home is the Primary Residence of the homeowner.
- (3) <u>Temporary Tenancy</u>. A homeowner who is the Primary Resident of a single-family home may create a temporary tenancy. The temporary tenant must be provided, in writing at the inception of the tenancy, the length of the tenancy and a statement that the tenancy may be terminated at the end of the temporary tenancy (pursuant to Section 5 (a)(8) below) and payment of relocation fees shall not be required. This subsection only applies to tenancies that last no more than twelve consecutive months.

### Sec. 5. Just Cause for Eviction Protections.

- (a) No Landlord shall take action to terminate any tenancy, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a tenancy verbally or in writing, serving any notice to quit or other eviction notice, or bringing any action to recover possession or be granted recovery of possession of a Rental Unit unless:
  - (1) Failure to Pay Rent. The Tenant has failed to pay the Rent to which the Landlord is legally entitled under the Rental Housing Agreement, this Ordinance, and state and any other local law.
  - (2) <u>Breach of Lease</u>. The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement; and provided further that, where such terms have been accepted by the tenant or made part of the rental agreement subsequent to the initial creation of the tenancy, the landlord shall have first notified the tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement.
    - (A) Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a tenancy based on a Tenant's sublease of the unit if the following requirements are met:
      - The Tenant continues to reside in the Rental Unit as his, her or their primary residence.
      - ii. The sublease replaces one or more departed Tenants under the Rental Housing Agreement on a one-for-one basis.
      - iii. The Landlord has unreasonably withheld the right to sublease following written request by the Tenant. If the Landlord fails to respond to the Tenant in writing within fourteen (14) days of receipt of the Tenant's written request, the Tenant's request shall be deemed approved by the Landlord. A Landlord's

reasonable refusal of the Tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the Rent to the Landlord. A Landlord's reasonable refusal of the Tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a Rental Unit exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code Section 17922.

Protections for Families. Notwithstanding any contrary provision in this Section, a Landlord shall not endeavor to recover possession of a Rental Unit as a result of the addition to the Rental Unit of a Tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in California Family Code Section 297) of such relatives, or as a result of the addition of the spouse or domestic partner of a Tenant, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code 17922. The Rent Board shall promulgate regulations that will further protect families and promote stability for school aged children.

- (3) Nuisance or criminal activity. The Tenant has continued, after the Landlord has served the Tenant with a written notice to cease, to commit or expressly permit a nuisance in, or cause substantial damage to the Rental unit the Rental Unit.
- (4) Failure to Give Access. The Tenant has continued to refuse, after the Landlord has served the Tenant with a written notice, to grant the Landlord reasonable access to the Rental Unit for the purposes of showing the unit to prospective purchaser or mortgagee or making necessary repairs or improvements required by the laws of the United States, the State of California or any subdivision thereof. This shall include inspections by code or health inspectors and any other inspections needed so that the landlord may comply with any government orders. The Board shall promulgate regulations for the repair and improvement of Rental Units to ensure the least amount of disruption for the Tenant. Unless due to a documented emergency affecting a Tenant's health and/or safety, all repair or improvement work will be scheduled in compliance with applicable Board regulations. To terminate a tenancy under this Subsection (a)(4), a Landlord must show that written notice was provided to the Tenant and all necessary repair or improvement work was scheduled in compliance with this Section and all applicable Board regulations. Landlords may not use lock boxes on occupied units.
- (5) <u>Temporarily Vacate in Order to Undertake Substantial Repairs.</u>
  The Landlord after having obtained all necessary permits from the City, and having provided written notice to the Tenant pursuant to state law, seeks in good faith to undertake substantial repairs which are necessary to bring the Rental Unit into compliance with applicable codes and laws affecting the health and safety of tenants of the building, provided that:

- (A) The repairs necessitate that the Tenant vacate the Rental Unit because the work will render the rental unit uninhabitable for a period of not less than thirty (30) days;
- (B) The Landlord gives advance notice to the Tenant of the Tenant's right to elect between:
  - (i) The right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable vacant unit exists; or
  - (ii) The first right of return to reoccupy the unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit.
  - (iii) In the event that the Tenant elects to accept an offer to move to a comparable vacant Rental Unit at the same Rent, the Tenant is not eligible for any relocation assistance pursuant to Section 5(b) herein.
- (A) In the event the landlord files an application for an individual rent adjustment within six months following the completion of the work, the tenant shall be a party to such proceeding the same as if he or she were still in possession, unless the landlord shall submit, with such application, a written waiver by the tenant of his or her right to re-occupy the premises pursuant to this subsection.
- (6) Owner Move-In. The Landlord seeks to recover possession in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord's spouse children, parents or grandparents.
  - (A) Landlord, as used in this Subsection (a)(6), shall only include a Landlord that is a natural person who has at least a fifty (50) percent recorded ownership interest in the Property.
  - (A) No eviction may take place for an "owner move-in" if the same Landlord or enumerated relative already occupies a unit on the property, or if a vacancy already exists on the property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is Disabled and another unit in National City is necessary to accommodate the person's disability.
  - (B) The notice terminating tenancy shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit.
  - (C) The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within ninety (90) days after the Tenant vacates and

- to occupy the Rental Unit as a primary residence for at least Thirty-Six (36) consecutive months. The National City Rent Board may adopt regulations governing the determination of good faith.
- (A) If the Landlord or relative specified on the notice terminating tenancy fails to occupy the unit within ninety (90) days after the Tenant vacates, the Landlord shall:
  - i. Offer the unit to the Tenant who vacated it; and
  - ii. Pay to said Tenant all reasonable expenses incurred in moving to and from the unit.
- (B) Eviction Protection for Elderly or Disabled Tenant. A Landlord may not evict a Tenant pursuant to this Subsection if the Tenant (1) has resided in the Rental Unit for at least five (5) years and is either at least 62 years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. For the purposes of this Subsection, notwithstanding the above, a Landlord may evict a Tenant who qualifies for the exemption if the Landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption and no other units are available.
- (7) Withdrawal from Rental Market. The Landlord seeks in good faith to recover possession to withdraw all Rental Units of an entire property located in National City or for Demolition. The Landlord has filed the requisite documents with the Board initiating the procedure for withdrawing Units from rent or lease under Government Code Section 7060 et. seq. and all regulations passed by the Board, with the intention of completing the withdrawal process and going out of the rental business or demolition of the property. Tenants shall be entitled to a minimum of 120-day notice or one (1) year in the case tenants are defined as senior or Disabled under Govt. Code Section 12955.3. Notice times maybe increased by regulations if state law allows for additional time. Tenants will also have a right of return if the unit is placed back on the rental market.
- (8) <u>Termination of Temporary Tenancy</u>. A landlord or lessor seeks in good faith to recover possession of the Single-Family Home for his/her occupancy as a primary residence, where the landlord or lessor has previously occupied the rental unit as his/her principal residence and has the right to recover possession of the unit for his/her occupancy as a principal residence under an existing rental agreement with the current tenants for no more than 12 consecutive months. Landlord must be in compliance with all requirements listed in Section 3 and any regulations that might be promulgated. No relocation is required.
- (b) Relocation: A landlord seeking to recover possession under Sections 5(a)(5),(6) or (7) above shall make relocation payments. The following fees shall be the total amount paid for each tenancy based on length of tenancy, age of tenants and whether or not a tenant has a disability. Relocation in the amount of \$7,000; if the tenant(s) is a senior citizen, disabled, or has minor children the amount of \$10,000 will be paid to the displaced

- tenant(s). These amounts shall be the relocation amounts for the first 12 months after this measure is passed. Amounts shall be increased each year by the Rent Board by a minimum of 100% of the difference in the Consumer Price Index but may be increased by the Board as it deems fit for the relocation to reflect the cost of a tenant being forced to relocate based on a no-fault eviction.
- 1) Right of Return and First Right of Refusal: All Tenants that are displaced based on Sections 5(a)(5),(6) or (7) shall have the first right of refusal to return to the unit if it should ever be returned to the market by the Landlord or successor Landlord. Rent shall be the Rent lawfully paid by the tenant at the time the Landlord gave notice of basis listed in Sections 5(a)(5),(6) or (7).
- 2) Written Warning Notice Requirements: Any written notice as described in Subsections 5(a)(2)-(4) shall be served by the Landlord within a reasonable period prior to serving a notice to terminate tenancy and shall inform the Tenant that a failure to cure may result in the initiation of eviction proceedings, of the right to request a reasonable accommodation and the contact number for the Rent Board. The notice shall also include sufficient details allowing a reasonable person to comply. The notice shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice.
- 3) Notice Requirements: In any notice purporting to terminate tenancy the Landlord shall state the cause for the termination, and in any action brought to recover possession of a Rental Unit, the Landlord shall allege and prove compliance with this Section. All notices described in Subsection 5(a)(2) shall be attached to any notices that purport to terminate a tenancy for which they correspond. The Landlord shall file with the Rent Board a copy of any notice terminating tenancy within three (3) days after serving the notice on the Tenant.
- 4) Retaliation is Barred: Notwithstanding the above provisions, possession shall not be granted if it is determined that the eviction is motived in substantial part by retaliation for the Tenant reporting violations of this Ordinance, for exercising rights granted under this Ordinance, including the right to withhold Rent upon authorization of the Rent Board under this Ordinance or for forming a Recognized Tenant Organization with other Tenants, making complaints regarding housing conditions to the Landlord, City Officials or any other party, or exercising any other right protected under Federal, state, or local law.
- 5) Failure to comply: Failure to comply with any requirement of this Ordinance may be asserted as an affirmative defense (by the Tenant(s) or sub-tenant(s)) in an action brought by the Landlord to recover possession of the Unit. Additionally, any attempt to recover possession of a Unit in violation of this Ordinance shall render the Landlord liable to the Tenant for actual damages, including damages for emotional distress, in a civil action for wrongful eviction. The Tenant or the Rent Board may seek injunctive relief and money damages for wrongful eviction. A Tenant prevailing in an action for wrongful eviction shall recover costs and reasonable attorney's fees. All remedies allowable under this subsection are in addition to any other remedies due a tenant for violation of his or her rights found elsewhere in the law.

### Sec. 6. Rental Control Board.

(a) **Composition**: Pursuant to the authority granted by Sections 36505 and 36506 of the California Government Code, there is hereby created and there shall be in National City a National City Rent Board. Local enforcement is the most effective way to create stability for Tenants, homeowners, and Landlords. Protection shall be overseen by a Rent Board. The Board shall consist of five members. The Board shall elect annually as chairperson one of its members to serve in that capacity.

The City Council must appoint the first Rent Board as quickly as possible, but do so within 120 days of the effective date of this Ordinance.

- (b) Appointment and Vacancy: The members of the Rent Board shall be appointed for staggered four year terms by the City Council. If a vacancy shall occur other than by expiration of a term, such vacancy shall be filled by appointment for the unexpired portion of said term in the same manner as original appointments are made. Each member of the commission shall serve until their successor is appointed and sworn into office.
- (c) <u>Term Limits</u>: an individual is limited to two consecutive terms, unless no candidate having the eligibility requirements described in subsection (d) is available, in which case an individual may serve three consecutive terms.
- (d) Eligibility: All Rent Board members shall be residents of National City. No less that three shall be tenants who reside in a covered unit.

If any landlords or managers of residential rental property are appointed to this Rent Board, they must make a showing that they are in compliance with this Ordinance and all other local, state and federal laws regulating the provision of housing. This showing must be provided in writing with any necessary documentation and provided on the City of National City website.

- (e) Full Disclosure of Holdings: Candidates for the position of Board Member shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, during the previous three (3) years. This documentation shall be made available to the public.
  - (f) Powers and Duties: The Board shall have the following powers and duties:
    - (1) Establish a Base Rent under Section 7(a).
    - (2) Make adjustments in the Rent Increase and Decreases in accordance with Section 7.
    - (3) Set Rents at fair and equitable levels in order to achieve the intent of this Ordinance.
    - (4) Issue orders, rules and regulations, conduct hearings and charge fees

as set forth below.

- (5) Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
- (6) Report annually to the City Council of National City on the status of rental housing covered by this Ordinance. This shall include a summary of the numbers of notices served, the basis upon which they were served, the amount of the Rent increases and the addresses for which they were served. A searchable database will be created so that service of notice may be determined as well as the summaries. A Rent increase, termination, or change in terms of tenancy is not valid if not served on the Board.
- (7) Administer oaths and affirmations and subpoena witnesses.
- (1) Establish rules and regulations for deducting penalties and settling civil claims under Section 10.
- (2) Refer violations of this Ordinance to appropriate authorities for prosecution.
- (3) Seek injunctive and other civil relief under Sections 10-11.
- (4) Charge and collect the Rental Housing fee, including penalties for late payments.
- (12) Make available on a contract basis legal assistance services for low-income residents of National City related to evictions and Board petitions, hearings and appeals.
- (1) Collect and/or receive copies of notices of termination of tenancy and changes in terms of tenancy.
- (2) Any other duties necessary to administer and enforce this Ordinance.
- (a) Rules and Regulations: The Rent Board shall issue and follow such rules and regulations, including those which are contained in this Ordinance as will further the purposes of the Ordinance. The Rent Board shall publicize its rules and regulations prior to promulgation on its website and any other appropriate medium. All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions, orders, and policies of the Board shall be kept in the Board's office and made available online to the public for inspection, download and copying or any other future appropriate technology.
- (b) Community Education: The Board shall publicize this Ordinance so that all residents of National City will have the opportunity to become informed about their legal rights and duties under this Ordinance. The Board shall prepare a brochure which fully describes the legal rights and duties of Landlords and Tenants under

The National City Renter Protection and Community Stabilization Ordinance. The brochure shall also include helpful information for homeowners. The brochure will be available to the public, and each Tenant of a Rental Unit shall receive a copy of the brochure from his, her or their Landlord. Landlords shall provide the brochure at the commencement of the tenancy and with each notice of rent increase. This brochure will be made available for download from the City of National City website and/or other appropriate technology. Information about the Ordinance shall be made available in all other languages that are requested by the community.

- (c) <u>Meetings</u>: The Board shall hold such regularly scheduled meetings as are necessary to ensure the timely performance of its duties under this Ordinance. All regular and special meetings shall be called and conducted in accordance with state law. There shall be minimally one (1) meeting a year so that the Board may comply with Section 7.
- (d) Quorum: Three (3) Members shall constitute a quorum for the Board.
- (e) <u>Voting</u>: The affirmative vote of three (3) Members of the Board is required for a decision, including all motions, regulations, and orders of the Board.
- (f) Financing: The Board shall finance its reasonable and necessary expenses by charging Landlords annual Rental Housing Fees in amounts deemed reasonable by the Rent Board.
  - (1) The Rent Board shall set this Rental Housing Fee on an annual basis. The rate of the Rental Housing Fee shall be reasonably set to cover the costs of the activities of the Rent Board.
  - (2) The Rent Board shall set regulations on how the fee will be published to Landlords, collected, and what late fees and penalties will apply to non-payment.
  - (3) From the time that this Ordinance goes into effect until the first Board is appointed and determines the first fee amount, the amount shall be \$120 per Controlled Rental Unit per year (\$10 a month) for controlled units and \$84 per Rental Unit per year (\$7 a month) for Rental Units that are only covered by Just Cause for Eviction Protections.
  - (4) This fee shall become due within thirty (30) days of inception of new tenancy if no fee was paid the prior year. Ongoing tenancies shall have fees collected at the same time as the City business license each year.
- (b) Integrity and Autonomy of Board: The Rent Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Ordinance independent from the City Council, City Manager, and City Attorney, except by request of the Rent Board. The City shall provide infrastructural support on an ongoing basis as it would with any other department. During the transition period before the Board Members are appointed, the City shall take whatever steps necessary to perform the duties of the Board and implement the purpose of this Ordinance.

- Budget: The Board shall, prior to July 1 of each year, hold a public hearing on a (c) proposed budget and adopt an annual budget for the ensuing fiscal year. At least thirty-five days prior to the beginning of each fiscal year, the Board's Director shall submit to the Board the proposed budget as prepared by the Executive Director. After reviewing the same and making such revisions as it may deem advisable, the Board shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the Board at least ten days prior to said hearing. The City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget the Rent Board may amend or supplement the budget by the affirmative votes of at least three members. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk, and City Manager. Necessary adjustments to city administrative procedures shall be made.
- (d) Personnel: The Board shall review and assess yearly that sufficient number of staff are employed, including an Executive Director, hearing examiners, housing counselors and legal staff, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Ordinance. Except for the elected or appointed Board Members and the Executive Director, all employees of the Board are within the classified civil service of the City. The Board shall appoint an Executive Director to administer and supervise the exercise of its powers and duties who shall be directly responsible to the Board.
- (e) <u>Board Legal Work</u>: Legal staff hired by the Board shall represent and advise the Board, its Members, and its staff in any civil matters, actions, or proceedings in which the Board, its Members, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions or proceedings.
- (f) <u>Contracts and Purchases</u>: The Board shall procure goods and services as do other City agencies using existing support services within the City as would any other department, i.e. Finance, Information Technology, and Public Works among others, provided, however, that the Board shall have sole and final authority to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.
- (g) <u>Conforming Regulations</u>: If any portion of this Ordinance is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Ordinance to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to rent control matters as enumerated in this Ordinance.

### (h) Reporting and Fee Payment Requirements:

- (1) Within sixty (60) days after the adoption of this Ordinance, all Landlords shall be required to file a copy of all rental increase notices, change of terms of tenancy and tenancy termination notices with the Board before serving the tenant the notice. A proof of service with time and date of service of notice shall be included with notice filed with the City.
- (2) If the Board, after the Landlord has proper notice and after a hearing, determines that a Landlord has willfully and knowingly failed to properly report, as described above, any rental increase notices, change of terms of tenancy or tenancy termination, or pay the Rental Housing fee, the Board may authorize the Tenant of such a non-reporting or fee paid Unit to withhold all or a portion of the Rent for the Rental Unit until such time as the Rental Housing fee is paid or notice filed. After a notice is properly filed or fee paid, the Board shall determine what portion, if any, of the withheld Rent is owed to the Landlord for the period in which the notice is not properly filed or fee paid. Whether or not the Board allows such withholding, no Landlord who has failed to properly report or pay the fee shall at any time increase Rents for a Controlled Rental Unit until such fee or notice is reported. This shall go into effect thirty (30) days after determination of the Board.
- (3) Further, failing to pay the fee or filing a copy of a notice before the filing of an unlawful detainer is a complete defense to an unlawful detainer. No Board action is required for defense to be alleged or litigated in an unlawful detainer.

### Sec. 7. Stabilization of Rents; Right of Reasonable Return for Landlords.

- (a) Establishment of Base Rent: Beginning the effective date of this Ordinance, no Landlord shall charge Rent for any Controlled Rental Units in an amount greater than the Base Rental Rate, at the time of the Publishing of the Ordinance. If there was no rental rate applicable to a unit on the date of the Publishing of this Ordinance, the Base Rent shall be the Rent that was charged on the first date that Rent was charged following the date of the Publishing of this Ordinance. For tenancies commencing after the adoption of this Ordinance, the Base Rent is the initial rental rate in effect on the date the tenancy commences. As used in this Subsection, the term "initial rental rate" means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy. The Base Rent is the reference point from which the Maximum Allowable Rent shall be adjusted upward or downward in accordance with Section 7(c).
- (b) **Posting**: As soon as the Landlord is aware of the Annual General Adjustment the Landlord shall post it in a prominent place in or about the affected Controlled Rental Units. The Board may require that other information it deems relevant also be posted.
- (c) Annual General Adjustment: No later than June 30 each year, the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. Landlords may only impose a rent increase based on the Annual General Adjustment in the month of September each year.

- (1) The Annual General Adjustment shall be equal to one hundred (100%) percent of the percentage increase in the Consumer Price Index (CPI-U ("All Urban Consumers") US City Average), or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year.
- (2) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be more than five percent (5%).
- (3) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%).
- (4) For the period between the effective date of this Ordinance and the first Annual General Adjustment announced September 1, the landlord may increase the Maximum Allowable Rent to include one Annual General Adjustment for September 2018. This is the only time when a landlord may impose an increase that the landlord failed to do in the past.
- (d) <u>Petitions</u>: Upon receipt of a petition by a Landlord and/or a Tenant, the Maximum Allowable Rent of individual Controlled Rental Units may be adjusted upward or downward in accordance with the procedures set forth elsewhere in this Section. The petition shall be on the form provided by the Board and shall include a declaration by the Landlord that the Rental Unit meets all requirements of this Ordinance. Notwithstanding any other provision of this Section, the Board or hearing examiner may refuse to hold a hearing and/or grant a Rent adjustment if an individual hearing has been held and decision made with regard to the Maximum Allowable Rent within the previous twelve (12) months.
- (e) <u>Hearing Procedure</u>: The Board shall enact rules and regulations governing hearings and appeals of individual adjustment of Maximum Allowable Rents which shall include the following:
  - (1) <u>Hearing Examiner</u>. A hearing examiner appointed by the Board shall conduct a hearing to act upon the petition for individual adjustment of Lawful Rent and shall have the power to administer oaths and affirmations.
  - (2) <u>Notice</u>. The Board shall notify the Landlord, if the petition was filed by the Tenant, or the Tenant, if the petition was filed by the Landlord, of the receipt of such a petition and provide a copy thereof.
  - (3) <u>Time of Hearing</u>. The hearing officer shall notify all parties as to the time, date and place of the hearing.
  - (4) Records. The hearing examiner may require either party to a Rent adjustment hearing to provide it with any books, records and papers deemed pertinent in addition to that information contained in registration statements. The hearing examiner shall conduct a current building inspection and/or request the city to conduct a current building inspection if the hearing examiner finds good

cause to believe the Board's current information does not reflect the current condition of the Controlled Rental Unit. The Tenant may request the hearing examiner to order such an inspection prior to the date of the hearing. All documents required under this Section shall be made available to the parties involved prior to the hearing at the office of the Board. In cases where information filed in a petition for Maximum Allowable Rent adjustment or in additional submissions filed at the request of the hearing examiner is inadequate or false, no action shall be taken on said petition until the deficiency is remedied.

- (5) Open Hearings. All Maximum Allowable Rent adjustment hearings shall be open to the public.
- (6) Right of Assistance. All parties to a hearing may have assistance in presenting evidence and developing their position from attorneys, legal workers, Recognized Tenant Organization representatives or any other persons designated by said parties.
- (7) Hearing Record. The Board shall make available for inspection and copying by any person an official record which shall constitute the exclusive record for decision on the issues at the hearing. The record of the hearing, or any part of one, shall be obtainable for the cost of copying. The record of the hearing shall include: all exhibits, papers and documents required to be filed or accepted into evidence during the proceedings; a list of participants present; a summary of all testimony accepted in the proceedings; a statement of all materials officially noticed; all recommended decisions; orders and/or rulings; all final decisions, orders and/or rulings, and the reasons for each final decision, order and/or ruling. All hearings shall be recorded. Any party may receive a copy of the audio that was made. Reasonable costs may be charged. The Board shall not be responsible to transcribe such audio.
- (8) Quantum of Proof and Notice of Decision. No individual adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing. All parties to a hearing shall be sent a notice of the decision and a copy of the findings of fact and law upon which said decision is based. At the same time, parties to the proceeding shall also be notified of their right to any appeal allowed by the Board and/or to judicial review of the decision pursuant to this Section and Section 9 of this Ordinance.
- (1) <u>Consolidation</u>. All Landlord petitions pertaining to Tenants in the same building will be consolidated for hearing, and all petitions filed by Tenants occupying the same building shall be consolidated for hearing unless there is a showing of good cause not to consolidate such petitions.
- (2) <u>Appeal</u>. Any person aggrieved by the decision of the hearing examiner may appeal to the Rent Board. On appeal, the Rent Board shall affirm, reverse or modify the decision of the hearing examiner.
- (3) Finality of Decision. The decision of the hearing examiner shall be the final decision of the Board in the event of no appeal to the Rent Board. The

decision of the hearing examiner shall not be stayed pending appeal; however, in the event that the Rent Board on appeal reverses or modifies the decision of the hearing examiner, the Landlord, in the case of an upward adjustment in Rent, or the Tenant, in the case of a downward adjustment of Rent, shall be ordered to make retroactive payments to restore the parties to the position they would have occupied had the hearing examiner's decision been the same as that of the Board.

- (4) <u>Time for Decision</u>. The rules and regulations adopted by the Board shall provide for final action on any individual Rent adjustment petition within a reasonable time.
  - (A) Decisions decreasing Rents shall remain in effect until the Board finds that the Landlord has corrected the defect warranting the decrease. The Board shall, by regulation, establish procedures for making prompt compliance determinations. Upon a determination of compliance the Landlord shall be entitled to reinstatement of the prior Rent level, retroactive to the date that the Landlord corrected the defect which warranted the decrease.
  - (B) This shall be in compliance with California Civil Procedure Section 1942.4. If the Landlord is found to be in violation of California Civil Procedure Section 1942.4, then no rent shall be charged for the period during which the Landlord was in violation.
- (a) Individual Adjustments Rent Increase: In making individual adjustments of the Annual Adjustable Rent Increase, the Board shall consider the purposes of this Ordinance and the requirements of law. In making an individual downward adjustment, the Board may consider decreases in living space, furniture, furnishings, equipment, or services; substantial deterioration of the Controlled Rental Unit other than as a result of ordinary wear and tear; or failure on the part of the Landlord to provide adequate Housing Services or to comply substantially with applicable housing, health and safety codes.
- (b) The landlord may not charge for utilities unless the utility is separately or individually metered.
- (c) <u>Landlords have the right to a Fair Return on their Investment:</u> In making individual adjustments of the Maximum Allowable Rent, the board or hearing examiner shall consider the purposes of this Ordinance and shall specifically consider all relevant factors, including (but not limited to):
  - (1) Increases or decreases in property taxes;
  - Unavoidable increases or any decreases in maintenance and operating expenses;
  - (2) The cost of planned or completed capital improvements to the rental unit

(as distinguished from ordinary repair, replacement and maintenance) where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement;

- (3) Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules;
- (4) Substantial deterioration of the controlled rental unit other than as a result of normal wear and tear;
- (5) Failure on the part of the landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement; and
- (6) The pattern of recent rent increases or decreases.
- (a) No upward adjustment of an individual Maximum Allowable Rent shall be authorized by the board under this Section if the landlord:
  - (1) Has continued to fail to comply, after order of the Board, with any provisions of this Ordinance and/or orders or regulations issued thereunder by the Board, or
  - (2) Has failed to bring the rental unit into compliance with the implied warranty of habitability.
- (b) Allowable rent increases pursuant to an individual upward adjustment of the rent ceiling shall become effective only after the landlord gives the tenant at least a thirty (30) day written notice of such rent increase and the notice period expires. If the board makes a downward individual adjustment of the rent ceiling, such rent decrease shall take effect no sooner than thirty (30) days after the effective date set by the board for the downward adjustment.
- (a) No provision of this Ordinance shall be applied so as to prohibit the Rent Board from granting an individual rent adjustment that is demonstrated by the landlord to be necessary to provide the landlord with a fair return on investment. Necessity shall be defined in regulations promulgated by the Board. Limits on the total increase per month and length of monthly increase shall be promulgated by the Board through regulations.

# Sec. 8. Non-waiverability.

Any provision, whether oral or written in or pertaining to a Rental Housing Agreement whereby any provision of this Ordinance for the benefit of the Tenant is waived, shall be deemed to be against public policy and shall be void.

### Sec. 9. Judicial Review.

A Landlord or Tenant aggrieved by any action or decision of the Rent Board may seek judicial review by appealing to the appropriate court within the jurisdiction. No action or decision by the Board shall go into effect until thirty (30) days have expired to allow for such appeal.

### Sec. 10. Remedies.

- (a) Any Landlord who demands, accepts, receives, or retains any payment of Rent in excess of the maximum lawful Rent, in violation of the provisions of this Ordinance or any rule, regulation or order hereunder promulgated, including the provisions ensuring compliance with habitability standards and registration fee requirements, shall be liable in a civil action to the Tenant from whom such payments are demanded, accepted, received or retained, for:
  - Damages in the amount by which the payment or payments demanded, accepted, received or retained which exceeds the maximum lawful Rent;
  - (2) Liquidated damage due to the tenant(s) in question of an amount equal to the payment or payments demanded, accepted, received or retained exceeds the maximum lawful Rent shall be awarded against the Landlord upon a showing of overcharge;
  - (3) Reasonable attorney's fees and costs as determined by the court; and
  - (4) If it is found, by a preponderance of the evidence, that the Landlord has acted willfully or with oppression, fraud or malice, the court may award general and special damages, including consequential, and emotional distress.

No administrative remedy need be exhausted prior to filing suit pursuant to this Subsection.

- (b) In lieu of filing a civil action, a Tenant may file an administrative complaint. The Rent Board shall establish by rule and regulation a hearing procedure similar to that set forth in Section 7(e).
  - (1) The rules and regulations adopted by the Board shall provide for final Rent Board action on any complaint for excess Rent within one-hundred twenty (120) days following the date of filing of the complaint.
  - (2) In any administrative hearing under this Section, a Landlord who demands, accepts, receives or retains any payment of Rent in excess of the maximum lawful Rent shall be liable for damages in the amount by which the payment or payments demanded, accepted, received or retained exceeds the maximum lawful Rent. Additionally, the tenant will be entitled to costs, expenses incurred in pursuing the hearing remedy, damages and penalties. The Tenant may deduct the penalty and award of damages from future Rent payments in the manner provided by the Rent Board. An order authorizing Rent withholding under

this Ordinance shall survive the sale or other transfer of the Property and shall be binding upon successors of the Landlord against whom the order was made. If a Tenant authorized to withhold Rent under this Ordinance vacates the Property, the Landlord shall pay to such Tenant a sum equal to the balance of the Rent that the Tenant could have withheld.

- (c) If the Tenant from whom such excessive payment is demanded, acce, received or retained in violation of the foregoing provisions of this Ordinance or any rule or regulation or order hereunder promulgated fails to bring a civil or administrative action as provided for in Sections 10(b) (c) within one hundred twenty (120) days from the date of occurrence of the violation, the Rent Board may settle the claim arising out of the violation or bring such action. Thereafter, the Tenant on whose behalf the Board acted is barred from also bringing an action against the Landlord in regard to the same violation for which the Board has made a settlement or brought action. In the event the Board settles said claim, it shall be entitled to retain the costs it incurred in settlement thereof, and the Tenant against whom the violation has been committed shall be entitled to the remainder.
- (a) The appropriate court in the jurisdiction in which the Rental Unit affected is located shall have jurisdiction over all actions brought under this Section.
- (b) Any Landlord violating this Ordinance shall be guilty of a misdemeanor and shall be punished in accordance with Section 1-5.1 of the Alameda Municipal Code.

# Sec. 11. Injunctive and Other Civil Relief.

The Rent Board, and Tenants and Landlords of Rental Units, may seek relief from the appropriate court within the jurisdiction within which the affected Rental Unit is located to enforce any provision of this Ordinance or its implementing regulations or to restrain or enjoin any violation of this Ordinance and of the rules, regulations, orders and decisions of the Board.

# Sec. 12. Partial Invalidity.

If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. This Ordinance shall be liberally construed to achieve the purposes of this Ordinance and to preserve its validity.

## Sec. 13. Supersedes.

This Ordinance shall supersede any ordinance passed by the National City Council covering the area of rents or evictions.

# Sec. 14. Majority Approval, Effective Date, Execution.

This Ordinance shall be effective only if approved by a majority of the voters voting

thereon and shall go into effect ten (10) days after the vote is declared by the City Council. The Mayor and City Clerk are hereby authorized to execute this Ordinance to give evidence of its adoption by the voters.

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City requesting the Board of Supervisors of the County of San Diego to consolidate a General Municipal Election to be held on November 6, 2018 with the Statewide General Election to be held on that da

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE:	July 24, 2018	AGENDA ITEM NO.
ITEM TITLE:		
to consolidate a Ge		National City requesting the Board of Supervisors of the County of San Diego with the Statewide General Election to be held on November 6, 2018 pursuant City Clerk)
PREPARED BY:	Michael R. Dalla	DEPARTMENT: City Clerk
PHONE: 619-336-4	1226	APPROVED BY:
EXPLANATION:		
upon the filing of	a Resolution of the C	ion, and to consolidate a General Municipal Election with a statewide election, ity Council with the County Board of Supervisors requesting consolidation. equirements of Section 10403.
FINANCIAL STAT	EMENT:	APPROVED: Finance
ACCOUNT NO.	CIVICIAI.	APPROVED: MIS
001-402-021-212-00	0 Elections	
\$50,000 has been but at this time.	udgeted for our Municipa	al Election. Adding a measure to the ballot may result in additional costs, unknown
ENVIRONMENTA	L REVIEW:	
ORDINANCE: IN	ITRODUCTION:	FINAL ADOPTION:
STAFF RECOMM	ENDATION:	
Adopt the Resolutio	n.	
BOARD / COMMI	SSION RECOMMENI	DATION:
ATTACHMENTS:		
Resolution.		
No. of the second secon		

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY
REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF
SAN DIEGO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION WITH
THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018
PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, pursuant to the authority provided under the California Elections Code, a petition has been filed with the City Council of the City of National City, signed by more than ten (10) percent of the number of registered voters of the City, to submit a proposed ordinance establishing a program of residential rent control, including creation of an independent rent board, and including just cause for eviction protections and rent stabilization provisions; and

WHEREAS, the City Clerk has caused to be examined the records of registration, and it has been determined that the petition was signed by the requisite number of voters, and the petition has been so certified; and

WHEREAS, the City Council is authorized and directed by the Elections Code to submit the proposed ordinance to the qualified voters of the City; and

WHEREAS, pursuant to the Elections Code, the City Council hereby submits the proposed ordinance to the qualified voters of the City at the general municipal election to be held on November 6, 2018; and

WHEREAS, the City Council of the City of National City called a general municipal election to be held on November 6, 2018, for the purpose of submission of the proposed ordinance to the voters; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the statewide general election to be held on the same date and that within the City the precincts, polling places and election officers for the two election be the same, and that the Registrar of Voters of the County of San Diego canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. That pursuant to the requirements of Section 10403 of the Election Code, the Board of Supervisors of the County of San Diego is hereby requested to consent and agree to the consolidation of a General Municipal Election with the statewide general election on Tuesday, November 6, 2018 for the purpose of submission of the following ballot measure to the voters:

Shall an ordinance be adopted establishing a program of residential rent control, including creation of an independent rent board, and including	Yes	
just cause for eviction protections and rent stabilization provisions?	No	

Resolution No. 2018 -July 24, 2018 Page Two

- Section 2. That the above-proposed ordinance to be submitted to the voters is attached hereto as Exhibit "A" and incorporated herein by reference.
- Section 3. That the election hereby called for November 6, 2018 shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of Section 10418 of the Elections Code, and as specified herein. The Board of Supervisors of San Diego County and the San Diego County Registrar of Voters are hereby requested to order the consolidation of the municipal election hereby called with any other election to be held within the City on said date, and that said election shall be held in all respects as if there were only one election.
- Section 4. That the vote requirement for the measure to pass is a majority (50% + 1) of the votes cast.
- Section 5. That the ballots to be used at the election shall be in form and content as required by law.
- Section 6. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.
- Section 7. That the Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.
- Section 8. That pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to issue instructions to the Registrar of Voters to take any and all steps necessary for the holding of the consolidated election, including preparation and furnishing of the following:
- a) A listing of County precincts with the number of registered voters in each, so the City may consolidate election precincts into City voting precincts, and maps of the voting precincts;
  - b) A list of polling places and poll workers the County uses for its elections;
- c) The voter record of the names and addresses of all eligible registered voters in the City;
  - d) Voter signature verification services as needed;
- e) Make available to the City election equipment and assistance as needed according to state law.
- Section 9. That the City of National City recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any such costs.

Resolution No. 2018 -July 24, 2018 Page Three

Section 10. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters of the County of San Diego, and enter it into the book of original Resolutions of the City.

Section 11. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions of the City.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor
Michael R. Dalla, City Clerk	
APPROVED AS TO FORM:	
Angil P. Morris-Jones City Attorney	

### THE PEOPLE OF NATIONAL CITY ORDAIN AS FOLLOWS:

# THE NATIONAL CITY RENT CONTROL AND COMMUNITY STABILIZATION ORDINANCE

Sec. 1	Title and Purpose.		
Sec. 2	Findings.		
Sec. 3	Definitions.		
Sec. 4	Homeowner Protections.		
Sec. 5	Just Cause for Eviction Protections.		
Sec. 6	Rental Housing Board.		
Sec. 7	Stabilization of Rents; Right of Reasonable Return for Landlords.		
Sec. 8	Non-waiverability.		
Sec. 9	Judicial Review.		
Sec. 10	Remedies.		
Sec. 11	Injunctive and Other Civil Relief.		
Sec. 12	Partial Invalidity.		
Sec. 13	Supersedes.		
Sec. 14	Majority Approval, Effective Date, Execution.		

### Sec. 1. Title and Purpose.

This Ordinance shall be known as the National City RENT CONTROL and Community Stability Ordinance. The purpose of this Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in National City by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment and protections for homeowners.

### Sec. 2. Findings.

The people of National City find and declare as follows:

- (a) In its most recent report on the San Diego County Housing Market Area, the Department of Housing and Urban Development (HUD) described the County's rental housing market as "currently tight" at a vacancy rate of 3.6%, having dropped from a vacancy rate of 5.6% in 2010.
- (b) In a story published October 5, 2017, the San Diego Union Tribune stated that "average rent in San Diego County hit a record high of \$1,875 last month, continuing more than six years of rising rents in a tight housing market."
  - (c) According to the US Census Bureau American Community Survey:
    - Renters make up 68.1% of all occupied housing units in National City.
    - National City presently has the lowest median gross rent of any incorporated city within San Diego County

**EXHIBIT A** 

### Certification:

I, Irvin Martinez, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Irvin Martinez

Dated this \_\_\_\_\_\_ day of February, 2018

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- The median gross rent for rental housing units in National City increased
   16.6% in one year, from \$980 in 2015 to \$1143 in 2016.
- The share of renter households in National City that experience "housing cost burden", that is, pay at least 30% of their household income in gross rent, is 62.6.%.
- The share of households that suffer from "severe housing cost burden", or pay at least half of their household income in gross rent, is high and increasing. This situation now affects 31.3% of renter households, having increased from 23.5% of such households in 2007.
- The share of households that moved into their home before 2010 decreased from 52.8% in 2015 to 37.2% in 2016, indicating that long term National City residents are moving out of the homes they have lived in for years or even decades.
- (d) Members of community organizations have met with Members of the National City Council to discuss the problem of tenants experiencing large rent increases and to urge the City Council to take action to impose reasonable limits on rent increases.
- (e) Community organizations organized a public Housing Forum at St. Anthony's Church in National City to discuss the issues of large rent increases and evictions with tenants, community members and elected officials on December 14<sup>th</sup>, 2017.
- (f) The people of the National City find and declare that excessive rental increases could result in the displacement of low-income to moderate-income families.
- (g) Without adequate, reasonable, rationally-related controls on rent increases and other rent stabilization measures, along with just cause for eviction protections, certain aspects of public peace, health, or safety in the National City are at risk. It is in the interest of the City, of owners and residents of rental units, and of the community as a whole that the City enact regulations to protect and promote housing affordability within the City including, but not limited to, rent stabilization and just cause for eviction regulations.
- (h) In light of the numerous concerns noted herein, including, but not limited to, the current and immediate threat to the health, safety, and welfare of the City's residents and the adverse impacts that would result from a substantial decrease of housing affordability within the City, the People of National City determine that it is in the interest of immediately preserving the public health, safety and general welfare to adopt this Ordinance in order to allow staff to put into place, among other things, regulations to protect affordable housing within the City, just cause for eviction policies, and rent stabilization.
- (i) Rent stabilization has been adopted in a dozen jurisdictions in California and has long been upheld as constitutional by the California Supreme Court. Many cities with rent control are exploring ways to strengthen and expand tenant protections.
- (j) This Ordinance shall supersede any ordinance passed by the National City Council covering the area of rents or evictions.

#### Sec. 3. Definitions.

The following words or phrases as used in this Amendment shall have the following meanings:

- (a) Annual Allowable Rental Adjustment: "Annual Allowable Rental Adjustment" refers to the limit on the Maximum Allowable Rent increase, which a Landlord may charge on any Controlled Rental Unit each year without order from a hearing officer.
- (b) <u>Base Rental Rate</u>: The term "Base Rental Rate", shall refer to the legal rental rate, from which the Allowable Rental Adjustment is made. Each covered unit will have new Base Rental Rate each year, which the rental rate legally applicable to the unit at the time that the new Allowable Rental Rate is published by the Rent Board. The Base Rental Rate for the first year this Ordinance is enacted by the voters shall be the rental rate legally applicable to each covered unit at the Publishing of this Ordinance.
- (c) <u>Publishing of this Ordinance</u>: The term "Publishing of this Ordinance" shall refer to the publishing of the title and summary of this ordinance as required by the Election Code at 9205.
- (d) Rent Board: The term "Rent Board" refers to the National City Rental Board established by this Ordinance.
  - (e) Disabled: A person with a "disability" as defined in Govt. Code Section 12955.3.
- (f) <u>Controlled Rental Units</u>: All Residential Rental Units in National City, except those Rental Units exempt under one or more of the following provisions:
  - (1) Rental Units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of fewer than fourteen (14) days.
  - (2) Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education.
  - (3) Rental Units which applicable federal or state law or administrative regulation specifically exempt from municipal rent control.
  - (4) Any units exempted by the Homeowner Protections in Section 4.
  - (5) Rental Units where the owner is a non-profit and the rental rates are set at or below the rates set by a tax credit program, or the rental rates are set at or below rates in an "assisted housing development," as defined at Government Code section 65863.10; provided that upon the termination of the rent regulation by a tax credit program or assisted housing development program after the date of the publication of this ordinance, the provisions of this Ordinance shall apply and the Base Rental Rate shall be the amount set prior to such termination.

- (a) Housing Services: Housing Services include, but are not limited to, repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, utilities that are paid by landlord, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, and any other benefit, privilege or facility connected with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the building in which the Rental Unit is contained.
- (b) <u>Landlord</u>: An owner, lessor, sublessor or any other person entitled to receive rent for the use and occupancy of any Rental Unit, or an agent, representative or successor of any of the foregoing.
- (c) <u>Maximum Allowable Rent:</u> The maximum allowable rent which may be charged on any Controlled Rental Unit covered by this Ordinance.
- (d) <u>Primary Residence</u>: Occupancy of a Primary Residence does not require that the individual be physically present in the unit at all times or continuously, but the unit must be the individual's usual place of return. Factors that are indicative of Primary Residence include:
  - (1) the individual carries on basic living activities at the subject premises for extended periods;
  - the subject premises are listed with other public agencies, including federal, state and local taxing authorities as their primary residence;
  - (3) Utilities are billed to and paid by the individual at the subject premises;
  - (4) Homeowner's tax exemption for the individual has not been filed for a different property;
  - (5) The individual is not registered to vote at any other location;
  - (6) Ownership must be held in the name of the individual claiming Primary Residence and not held by a Limited Liability Corporation or other corporate structure. Ownership can be in the form of a trust, fee simple or other form of ownership, so long as the there is not a legal entity distinct from the natural person owner, and the natural person owner has a substantial ownership interest in the property;
  - (7) Other relevant factors illustrating Primary Residence.
- (e) <u>Property</u>: All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.
- (f) Rent: All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement concerning the use or

occupancy of a Rental Unit and premises and attendant Housing Services, including all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting. Landlord under a Rental Housing Agreement, as defined in this Section, concerning the use or occupancy of a Rental Unit and premises, including all payment and consideration demanded or paid for parking, utilities, pets, furniture, subletting and security deposits for damages and cleaning.

- (g) Rental Housing Agreement: An agreement, oral, written or implied, between a Landlord and Tenant for use or occupancy of a Rental Unit and for Housing Services.
  - (h) Rental Housing Fee: The fee described in Section 6(m)(1).
- (i) Rental Unit: Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant.
- (j) Recognized Tenant Organization: Any group of Tenants residing in Rental Units in the same building or in different buildings operated by the same management company, agent or Landlord, who choose to be so designated.
  - (k) Rounding: Numbers will be rounded using the "half away from zero" method.
- (I) <u>Single-Family Home</u>: A detached building containing a single residential dwelling unit separately alienable from any other dwelling unit.
- (m) <u>Temporary Tenancy:</u> The tenancy in a Single-Family Home, which is the primary residence of the Homeowner and does not last any longer than 12 consecutive months. A written contract must be provided to tenant at the inception of the tenancy, which includes a notice that the tenancy shall terminate in no more than 12 months when the owner shall return to the Single Family Home to reoccupy.
- (n) <u>Tenant</u>: A Tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Housing Agreement to the use or occupancy of any Rental Unit.
  - (o) <u>Utility Charges</u>: Any charges for gas, electricity, water, cable or internet.

### Sec. 4. Homeowner Protections.

- (a) Homeownership is of great importance to the residents of National City. Nothing in this Ordinance shall prevent the following if the single-family home is the primary residence of the homeowner.
  - (1) <u>Granny-Flats, and Duplexes</u>. A unit will be exempt from this Ordinance if it is one of two units (and only two units) on the same parcel, and one of the units is occupied by a natural person owner as a Primary Residence.

- (2) Renting of a Room, Unregulated. The tenancy where the tenant shares a bathroom or kitchen with the homeowner shall be exempt from this Ordinance if the single-family home is the Primary Residence of the homeowner.
- (3) <u>Temporary Tenancy</u>. A homeowner who is the Primary Resident of a single-family home may create a temporary tenancy. The temporary tenant must be provided, in writing at the inception of the tenancy, the length of the tenancy and a statement that the tenancy may be terminated at the end of the temporary tenancy (pursuant to Section 5 (a)(8) below) and payment of relocation fees shall not be required. This subsection only applies to tenancies that last no more than twelve consecutive months.

### Sec. 5. Just Cause for Eviction Protections.

- (a) No Landlord shall take action to terminate any tenancy, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a tenancy verbally or in writing, serving any notice to quit or other eviction notice, or bringing any action to recover possession or be granted recovery of possession of a Rental Unit unless:
  - (1) Failure to Pay Rent. The Tenant has failed to pay the Rent to which the Landlord is legally entitled under the Rental Housing Agreement, this Ordinance, and state and any other local law.
  - (2) <u>Breach of Lease</u>. The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement; and provided further that, where such terms have been accepted by the tenant or made part of the rental agreement subsequent to the initial creation of the tenancy, the landlord shall have first notified the tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement.
    - (A) Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a tenancy based on a Tenant's sublease of the unit if the following requirements are met:
      - The Tenant continues to reside in the Rental Unit as his, her or their primary residence.
      - ii. The sublease replaces one or more departed Tenants under the Rental Housing Agreement on a one-for-one basis.
      - iii. The Landlord has unreasonably withheld the right to sublease following written request by the Tenant. If the Landlord fails to respond to the Tenant in writing within fourteen (14) days of receipt of the Tenant's written request, the Tenant's request shall be deemed approved by the Landlord. A Landlord's

reasonable refusal of the Tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the Rent to the Landlord. A Landlord's reasonable refusal of the Tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a Rental Unit exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code Section 17922.

Protections for Families. Notwithstanding any contrary provision in this Section, a Landlord shall not endeavor to recover possession of a Rental Unit as a result of the addition to the Rental Unit of a Tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as defined in California Family Code Section 297) of such relatives, or as a result of the addition of the spouse or domestic partner of a Tenant, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code 17922. The Rent Board shall promulgate regulations that will further protect families and promote stability for school aged children.

- (3) Nuisance or criminal activity. The Tenant has continued, after the Landlord has served the Tenant with a written notice to cease, to commit or expressly permit a nuisance in, or cause substantial damage to the Rental unit the Rental Unit.
- (4) Failure to Give Access. The Tenant has continued to refuse, after the Landlord has served the Tenant with a written notice, to grant the Landlord reasonable access to the Rental Unit for the purposes of showing the unit to prospective purchaser or mortgagee or making necessary repairs or improvements required by the laws of the United States, the State of California or any subdivision thereof. This shall include inspections by code or health inspectors and any other inspections needed so that the landlord may comply with any government orders. The Board shall promulgate regulations for the repair and improvement of Rental Units to ensure the least amount of disruption for the Tenant. Unless due to a documented emergency affecting a Tenant's health and/or safety, all repair or improvement work will be scheduled in compliance with applicable Board regulations. To terminate a tenancy under this Subsection (a)(4), a Landlord must show that written notice was provided to the Tenant and all necessary repair or improvement work was scheduled in compliance with this Section and all applicable Board regulations. Landlords may not use lock boxes on occupied units.
- (5) Temporarily Vacate in Order to Undertake Substantial Repairs.

  The Landlord after having obtained all necessary permits from the City, and having provided written notice to the Tenant pursuant to state law, seeks in good faith to undertake substantial repairs which are necessary to bring the Rental Unit into compliance with applicable codes and laws affecting the health and safety of tenants of the building, provided that:

- (A) The repairs necessitate that the Tenant vacate the Rental Unit because the work will render the rental unit uninhabitable for a period of not less than thirty (30) days;
- (B) The Landlord gives advance notice to the Tenant of the Tenant's right to elect between:
  - (i) The right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable vacant unit exists; or
  - (ii) The first right of return to reoccupy the unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit.
  - (iii) In the event that the Tenant elects to accept an offer to move to a comparable vacant Rental Unit at the same Rent, the Tenant is not eligible for any relocation assistance pursuant to Section 5(b) herein.
- (A) In the event the landlord files an application for an individual rent adjustment within six months following the completion of the work, the tenant shall be a party to such proceeding the same as if he or she were still in possession, unless the landlord shall submit, with such application, a written waiver by the tenant of his or her right to re-occupy the premises pursuant to this subsection.
- (6) <u>Owner Move-In</u>. The Landlord seeks to recover possession in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord's spouse children, parents or grandparents.
  - (A) Landlord, as used in this Subsection (a)(6), shall only include a Landlord that is a natural person who has at least a fifty (50) percent recorded ownership interest in the Property.
  - (A) No eviction may take place for an "owner move-in" if the same Landlord or enumerated relative already occupies a unit on the property, or if a vacancy already exists on the property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is Disabled and another unit in National City is necessary to accommodate the person's disability.
  - (B) The notice terminating tenancy shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit.
  - (C) The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within ninety (90) days after the Tenant vacates and

- to occupy the Rental Unit as a primary residence for at least Thirty-Six (36) consecutive months. The National City Rent Board may adopt regulations governing the determination of good faith.
- (A) If the Landlord or relative specified on the notice terminating tenancy fails to occupy the unit within ninety (90) days after the Tenant vacates, the Landlord shall:
  - i. Offer the unit to the Tenant who vacated it; and
  - ii. Pay to said Tenant all reasonable expenses incurred in moving to and from the unit.
- (B) Eviction Protection for Elderly or Disabled Tenant. A Landlord may not evict a Tenant pursuant to this Subsection if the Tenant (1) has resided in the Rental Unit for at least five (5) years and is either at least 62 years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. For the purposes of this Subsection, notwithstanding the above, a Landlord may evict a Tenant who qualifies for the exemption if the Landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption and no other units are available.
- (7) Withdrawal from Rental Market. The Landlord seeks in good faith to recover possession to withdraw all Rental Units of an entire property located in National City or for Demolition. The Landlord has filed the requisite documents with the Board initiating the procedure for withdrawing Units from rent or lease under Government Code Section 7060 et. seq. and all regulations passed by the Board, with the intention of completing the withdrawal process and going out of the rental business or demolition of the property. Tenants shall be entitled to a minimum of 120-day notice or one (1) year in the case tenants are defined as senior or Disabled under Govt. Code Section 12955.3. Notice times maybe increased by regulations if state law allows for additional time. Tenants will also have a right of return if the unit is placed back on the rental market.
- (8) <u>Termination of Temporary Tenancy</u>. A landlord or lessor seeks in good faith to recover possession of the Single-Family Home for his/her occupancy as a primary residence, where the landlord or lessor has previously occupied the rental unit as his/her principal residence and has the right to recover possession of the unit for his/her occupancy as a principal residence under an existing rental agreement with the current tenants for no more than 12 consecutive months. Landlord must be in compliance with all requirements listed in Section 3 and any regulations that might be promulgated. No relocation is required.
- (b) Relocation: A landlord seeking to recover possession under Sections 5(a)(5),(6) or (7) above shall make relocation payments. The following fees shall be the total amount paid for each tenancy based on length of tenancy, age of tenants and whether or not a tenant has a disability. Relocation in the amount of \$7,000; if the tenant(s) is a senior citizen, disabled, or has minor children the amount of \$10,000 will be paid to the displaced

- tenant(s). These amounts shall be the relocation amounts for the first 12 months after this measure is passed. Amounts shall be increased each year by the Rent Board by a minimum of 100% of the difference in the Consumer Price Index but may be increased by the Board as it deems fit for the relocation to reflect the cost of a tenant being forced to relocate based on a no-fault eviction.
- 1) Right of Return and First Right of Refusal: All Tenants that are displaced based on Sections 5(a)(5),(6) or (7) shall have the first right of refusal to return to the unit if it should ever be returned to the market by the Landlord or successor Landlord. Rent shall be the Rent lawfully paid by the tenant at the time the Landlord gave notice of basis listed in Sections 5(a)(5),(6) or (7).
- 2) Written Warning Notice Requirements: Any written notice as described in Subsections 5(a)(2)-(4) shall be served by the Landlord within a reasonable period prior to serving a notice to terminate tenancy and shall inform the Tenant that a failure to cure may result in the initiation of eviction proceedings, of the right to request a reasonable accommodation and the contact number for the Rent Board. The notice shall also include sufficient details allowing a reasonable person to comply. The notice shall also include any information necessary to determine the date, time, place, witnesses present and other circumstances concerning the reason for the notice.
- 3) Notice Requirements: In any notice purporting to terminate tenancy the Landlord shall state the cause for the termination, and in any action brought to recover possession of a Rental Unit, the Landlord shall allege and prove compliance with this Section. All notices described in Subsection 5(a)(2) shall be attached to any notices that purport to terminate a tenancy for which they correspond. The Landlord shall file with the Rent Board a copy of any notice terminating tenancy within three (3) days after serving the notice on the Tenant.
- 4) Retaliation is Barred: Notwithstanding the above provisions, possession shall not be granted if it is determined that the eviction is motived in substantial part by retaliation for the Tenant reporting violations of this Ordinance, for exercising rights granted under this Ordinance, including the right to withhold Rent upon authorization of the Rent Board under this Ordinance or for forming a Recognized Tenant Organization with other Tenants, making complaints regarding housing conditions to the Landlord, City Officials or any other party, or exercising any other right protected under Federal, state, or local law.
- 5) Failure to comply: Failure to comply with any requirement of this Ordinance may be asserted as an affirmative defense (by the Tenant(s) or sub-tenant(s)) in an action brought by the Landlord to recover possession of the Unit. Additionally, any attempt to recover possession of a Unit in violation of this Ordinance shall render the Landlord liable to the Tenant for actual damages, including damages for emotional distress, in a civil action for wrongful eviction. The Tenant or the Rent Board may seek injunctive relief and money damages for wrongful eviction. A Tenant prevailing in an action for wrongful eviction shall recover costs and reasonable attorney's fees. All remedies allowable under this subsection are in addition to any other remedies due a tenant for violation of his or her rights found elsewhere in the law.

## Sec. 6. Rental Control Board.

(a) **Composition**: Pursuant to the authority granted by Sections 36505 and 36506 of the California Government Code, there is hereby created and there shall be in National City a National City Rent Board. Local enforcement is the most effective way to create stability for Tenants, homeowners, and Landlords. Protection shall be overseen by a Rent Board. The Board shall consist of five members. The Board shall elect annually as chairperson one of its members to serve in that capacity.

The City Council must appoint the first Rent Board as quickly as possible, but do so within 120 days of the effective date of this Ordinance.

- (b) Appointment and Vacancy: The members of the Rent Board shall be appointed for staggered four year terms by the City Council. If a vacancy shall occur other than by expiration of a term, such vacancy shall be filled by appointment for the unexpired portion of said term in the same manner as original appointments are made. Each member of the commission shall serve until their successor is appointed and sworn into office.
- (c) <u>Term Limits</u>: an individual is limited to two consecutive terms, unless no candidate having the eligibility requirements described in subsection (d) is available, in which case an individual may serve three consecutive terms.
- (d) Eligibility: All Rent Board members shall be residents of National City. No less that three shall be tenants who reside in a covered unit.

If any landlords or managers of residential rental property are appointed to this Rent Board, they must make a showing that they are in compliance with this Ordinance and all other local, state and federal laws regulating the provision of housing. This showing must be provided in writing with any necessary documentation and provided on the City of National City website.

- (e) Full Disclosure of Holdings: Candidates for the position of Board Member shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, during the previous three (3) years. This documentation shall be made available to the public.
  - (f) Powers and Duties: The Board shall have the following powers and duties:
    - (1) Establish a Base Rent under Section 7(a).
    - (2) Make adjustments in the Rent Increase and Decreases in accordance with Section 7.
    - (3) Set Rents at fair and equitable levels in order to achieve the intent of this Ordinance.
    - (4) Issue orders, rules and regulations, conduct hearings and charge fees

as set forth below.

- (5) Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
- (6) Report annually to the City Council of National City on the status of rental housing covered by this Ordinance. This shall include a summary of the numbers of notices served, the basis upon which they were served, the amount of the Rent increases and the addresses for which they were served. A searchable database will be created so that service of notice may be determined as well as the summaries. A Rent increase, termination, or change in terms of tenancy is not valid if not served on the Board.
- (7) Administer oaths and affirmations and subpoena witnesses.
- (1) Establish rules and regulations for deducting penalties and settling civil claims under Section 10.
- (2) Refer violations of this Ordinance to appropriate authorities for prosecution.
- (3) Seek injunctive and other civil relief under Sections 10-11.
- (4) Charge and collect the Rental Housing fee, including penalties for late payments.
- (12) Make available on a contract basis legal assistance services for low-income residents of National City related to evictions and Board petitions, hearings and appeals.
- (1) Collect and/or receive copies of notices of termination of tenancy and changes in terms of tenancy.
- (2) Any other duties necessary to administer and enforce this Ordinance.
- (a) Rules and Regulations: The Rent Board shall issue and follow such rules and regulations, including those which are contained in this Ordinance as will further the purposes of the Ordinance. The Rent Board shall publicize its rules and regulations prior to promulgation on its website and any other appropriate medium. All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions, orders, and policies of the Board shall be kept in the Board's office and made available online to the public for inspection, download and copying or any other future appropriate technology.
- (b) Community Education: The Board shall publicize this Ordinance so that all residents of National City will have the opportunity to become informed about their legal rights and duties under this Ordinance. The Board shall prepare a brochure which fully describes the legal rights and duties of Landlords and Tenants under

The National City Renter Protection and Community Stabilization Ordinance. The brochure shall also include helpful information for homeowners. The brochure will be available to the public, and each Tenant of a Rental Unit shall receive a copy of the brochure from his, her or their Landlord. Landlords shall provide the brochure at the commencement of the tenancy and with each notice of rent increase. This brochure will be made available for download from the City of National City website and/or other appropriate technology. Information about the Ordinance shall be made available in all other languages that are requested by the community.

- (c) <u>Meetings</u>: The Board shall hold such regularly scheduled meetings as are necessary to ensure the timely performance of its duties under this Ordinance. All regular and special meetings shall be called and conducted in accordance with state law. There shall be minimally one (1) meeting a year so that the Board may comply with Section 7.
- (d) Quorum: Three (3) Members shall constitute a quorum for the Board.
- (e) <u>Voting</u>: The affirmative vote of three (3) Members of the Board is required for a decision, including all motions, regulations, and orders of the Board.
- (f) Financing: The Board shall finance its reasonable and necessary expenses by charging Landlords annual Rental Housing Fees in amounts deemed reasonable by the Rent Board.
  - (1) The Rent Board shall set this Rental Housing Fee on an annual basis. The rate of the Rental Housing Fee shall be reasonably set to cover the costs of the activities of the Rent Board.
  - (2) The Rent Board shall set regulations on how the fee will be published to Landlords, collected, and what late fees and penalties will apply to non-payment.
  - (3) From the time that this Ordinance goes into effect until the first Board is appointed and determines the first fee amount, the amount shall be \$120 per Controlled Rental Unit per year (\$10 a month) for controlled units and \$84 per Rental Unit per year (\$7 a month) for Rental Units that are only covered by Just Cause for Eviction Protections.
  - (4) This fee shall become due within thirty (30) days of inception of new tenancy if no fee was paid the prior year. Ongoing tenancies shall have fees collected at the same time as the City business license each year.
- (b) Integrity and Autonomy of Board: The Rent Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Ordinance independent from the City Council, City Manager, and City Attorney, except by request of the Rent Board. The City shall provide infrastructural support on an ongoing basis as it would with any other department. During the transition period before the Board Members are appointed, the City shall take whatever steps necessary to perform the duties of the Board and implement the purpose of this Ordinance.

- Budget: The Board shall, prior to July 1 of each year, hold a public hearing on a (c) proposed budget and adopt an annual budget for the ensuing fiscal year. At least thirty-five days prior to the beginning of each fiscal year, the Board's Director shall submit to the Board the proposed budget as prepared by the Executive Director. After reviewing the same and making such revisions as it may deem advisable, the Board shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the Board at least ten days prior to said hearing. The City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget the Rent Board may amend or supplement the budget by the affirmative votes of at least three members. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk, and City Manager. Necessary adjustments to city administrative procedures shall be made.
- (d) Personnel: The Board shall review and assess yearly that sufficient number of staff are employed, including an Executive Director, hearing examiners, housing counselors and legal staff, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Ordinance. Except for the elected or appointed Board Members and the Executive Director, all employees of the Board are within the classified civil service of the City. The Board shall appoint an Executive Director to administer and supervise the exercise of its powers and duties who shall be directly responsible to the Board.
- (e) <u>Board Legal Work</u>: Legal staff hired by the Board shall represent and advise the Board, its Members, and its staff in any civil matters, actions, or proceedings in which the Board, its Members, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions or proceedings.
- (f) <u>Contracts and Purchases</u>: The Board shall procure goods and services as do other City agencies using existing support services within the City as would any other department, i.e. Finance, Information Technology, and Public Works among others, provided, however, that the Board shall have sole and final authority to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.
- (g) <u>Conforming Regulations</u>: If any portion of this Ordinance is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Ordinance to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to rent control matters as enumerated in this Ordinance.

# (h) Reporting and Fee Payment Requirements:

- (1) Within sixty (60) days after the adoption of this Ordinance, all Landlords shall be required to file a copy of all rental increase notices, change of terms of tenancy and tenancy termination notices with the Board before serving the tenant the notice. A proof of service with time and date of service of notice shall be included with notice filed with the City.
- (2) If the Board, after the Landlord has proper notice and after a hearing, determines that a Landlord has willfully and knowingly failed to properly report, as described above, any rental increase notices, change of terms of tenancy or tenancy termination, or pay the Rental Housing fee, the Board may authorize the Tenant of such a non-reporting or fee paid Unit to withhold all or a portion of the Rent for the Rental Unit until such time as the Rental Housing fee is paid or notice filed. After a notice is properly filed or fee paid, the Board shall determine what portion, if any, of the withheld Rent is owed to the Landlord for the period in which the notice is not properly filed or fee paid. Whether or not the Board allows such withholding, no Landlord who has failed to properly report or pay the fee shall at any time increase Rents for a Controlled Rental Unit until such fee or notice is reported. This shall go into effect thirty (30) days after determination of the Board.
- (3) Further, failing to pay the fee or filing a copy of a notice before the filing of an unlawful detainer is a complete defense to an unlawful detainer. No Board action is required for defense to be alleged or litigated in an unlawful detainer.

# Sec. 7. Stabilization of Rents; Right of Reasonable Return for Landlords.

- (a) Establishment of Base Rent: Beginning the effective date of this Ordinance, no Landlord shall charge Rent for any Controlled Rental Units in an amount greater than the Base Rental Rate, at the time of the Publishing of the Ordinance. If there was no rental rate applicable to a unit on the date of the Publishing of this Ordinance, the Base Rent shall be the Rent that was charged on the first date that Rent was charged following the date of the Publishing of this Ordinance. For tenancies commencing after the adoption of this Ordinance, the Base Rent is the initial rental rate in effect on the date the tenancy commences. As used in this Subsection, the term "initial rental rate" means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy. The Base Rent is the reference point from which the Maximum Allowable Rent shall be adjusted upward or downward in accordance with Section 7(c).
- (b) **Posting**: As soon as the Landlord is aware of the Annual General Adjustment the Landlord shall post it in a prominent place in or about the affected Controlled Rental Units. The Board may require that other information it deems relevant also be posted.
- (c) Annual General Adjustment: No later than June 30 each year, the Board shall announce the percentage by which Rent for eligible Rental Units will be generally adjusted effective September 1 of that year. Landlords may only impose a rent increase based on the Annual General Adjustment in the month of September each year.

- (1) The Annual General Adjustment shall be equal to one hundred (100%) percent of the percentage increase in the Consumer Price Index (CPI-U ("All Urban Consumers") US City Average), or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending as of March of the current year.
- (2) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be more than five percent (5%).
- (3) Subparagraph 1 of this Subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%).
- (4) For the period between the effective date of this Ordinance and the first Annual General Adjustment announced September 1, the landlord may increase the Maximum Allowable Rent to include one Annual General Adjustment for September 2018. This is the only time when a landlord may impose an increase that the landlord failed to do in the past.
- (d) <u>Petitions</u>: Upon receipt of a petition by a Landlord and/or a Tenant, the Maximum Allowable Rent of individual Controlled Rental Units may be adjusted upward or downward in accordance with the procedures set forth elsewhere in this Section. The petition shall be on the form provided by the Board and shall include a declaration by the Landlord that the Rental Unit meets all requirements of this Ordinance. Notwithstanding any other provision of this Section, the Board or hearing examiner may refuse to hold a hearing and/or grant a Rent adjustment if an individual hearing has been held and decision made with regard to the Maximum Allowable Rent within the previous twelve (12) months.
- (e) <u>Hearing Procedure</u>: The Board shall enact rules and regulations governing hearings and appeals of individual adjustment of Maximum Allowable Rents which shall include the following:
  - (1) <u>Hearing Examiner</u>. A hearing examiner appointed by the Board shall conduct a hearing to act upon the petition for individual adjustment of Lawful Rent and shall have the power to administer oaths and affirmations.
  - (2) <u>Notice</u>. The Board shall notify the Landlord, if the petition was filed by the Tenant, or the Tenant, if the petition was filed by the Landlord, of the receipt of such a petition and provide a copy thereof.
  - (3) <u>Time of Hearing</u>. The hearing officer shall notify all parties as to the time, date and place of the hearing.
  - (4) Records. The hearing examiner may require either party to a Rent adjustment hearing to provide it with any books, records and papers deemed pertinent in addition to that information contained in registration statements. The hearing examiner shall conduct a current building inspection and/or request the city to conduct a current building inspection if the hearing examiner finds good

cause to believe the Board's current information does not reflect the current condition of the Controlled Rental Unit. The Tenant may request the hearing examiner to order such an inspection prior to the date of the hearing. All documents required under this Section shall be made available to the parties involved prior to the hearing at the office of the Board. In cases where information filed in a petition for Maximum Allowable Rent adjustment or in additional submissions filed at the request of the hearing examiner is inadequate or false, no action shall be taken on said petition until the deficiency is remedied.

- (5) Open Hearings. All Maximum Allowable Rent adjustment hearings shall be open to the public.
- (6) Right of Assistance. All parties to a hearing may have assistance in presenting evidence and developing their position from attorneys, legal workers, Recognized Tenant Organization representatives or any other persons designated by said parties.
- (7) Hearing Record. The Board shall make available for inspection and copying by any person an official record which shall constitute the exclusive record for decision on the issues at the hearing. The record of the hearing, or any part of one, shall be obtainable for the cost of copying. The record of the hearing shall include: all exhibits, papers and documents required to be filed or accepted into evidence during the proceedings; a list of participants present; a summary of all testimony accepted in the proceedings; a statement of all materials officially noticed; all recommended decisions; orders and/or rulings; all final decisions, orders and/or rulings, and the reasons for each final decision, order and/or ruling. All hearings shall be recorded. Any party may receive a copy of the audio that was made. Reasonable costs may be charged. The Board shall not be responsible to transcribe such audio.
- (8) Quantum of Proof and Notice of Decision. No individual adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing. All parties to a hearing shall be sent a notice of the decision and a copy of the findings of fact and law upon which said decision is based. At the same time, parties to the proceeding shall also be notified of their right to any appeal allowed by the Board and/or to judicial review of the decision pursuant to this Section and Section 9 of this Ordinance.
- (1) <u>Consolidation</u>. All Landlord petitions pertaining to Tenants in the same building will be consolidated for hearing, and all petitions filed by Tenants occupying the same building shall be consolidated for hearing unless there is a showing of good cause not to consolidate such petitions.
- (2) <u>Appeal</u>. Any person aggrieved by the decision of the hearing examiner may appeal to the Rent Board. On appeal, the Rent Board shall affirm, reverse or modify the decision of the hearing examiner.
- (3) Finality of Decision. The decision of the hearing examiner shall be the final decision of the Board in the event of no appeal to the Rent Board. The

decision of the hearing examiner shall not be stayed pending appeal; however, in the event that the Rent Board on appeal reverses or modifies the decision of the hearing examiner, the Landlord, in the case of an upward adjustment in Rent, or the Tenant, in the case of a downward adjustment of Rent, shall be ordered to make retroactive payments to restore the parties to the position they would have occupied had the hearing examiner's decision been the same as that of the Board.

- (4) <u>Time for Decision</u>. The rules and regulations adopted by the Board shall provide for final action on any individual Rent adjustment petition within a reasonable time.
  - (A) Decisions decreasing Rents shall remain in effect until the Board finds that the Landlord has corrected the defect warranting the decrease. The Board shall, by regulation, establish procedures for making prompt compliance determinations. Upon a determination of compliance the Landlord shall be entitled to reinstatement of the prior Rent level, retroactive to the date that the Landlord corrected the defect which warranted the decrease.
  - (B) This shall be in compliance with California Civil Procedure Section 1942.4. If the Landlord is found to be in violation of California Civil Procedure Section 1942.4, then no rent shall be charged for the period during which the Landlord was in violation.
- (a) Individual Adjustments Rent Increase: In making individual adjustments of the Annual Adjustable Rent Increase, the Board shall consider the purposes of this Ordinance and the requirements of law. In making an individual downward adjustment, the Board may consider decreases in living space, furniture, furnishings, equipment, or services; substantial deterioration of the Controlled Rental Unit other than as a result of ordinary wear and tear; or failure on the part of the Landlord to provide adequate Housing Services or to comply substantially with applicable housing, health and safety codes.
- (b) The landlord may not charge for utilities unless the utility is separately or individually metered.
- (c) <u>Landlords have the right to a Fair Return on their Investment:</u> In making individual adjustments of the Maximum Allowable Rent, the board or hearing examiner shall consider the purposes of this Ordinance and shall specifically consider all relevant factors, including (but not limited to):
  - (1) Increases or decreases in property taxes;
  - Unavoidable increases or any decreases in maintenance and operating expenses;
  - (2) The cost of planned or completed capital improvements to the rental unit

(as distinguished from ordinary repair, replacement and maintenance) where such capital improvements are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement;

- (3) Increases or decreases in the number of tenants occupying the rental unit, living space, furniture, furnishings, equipment, or other housing services provided, or occupancy rules;
- (4) Substantial deterioration of the controlled rental unit other than as a result of normal wear and tear;
- (5) Failure on the part of the landlord to provide adequate housing services, or to comply substantially with applicable state rental housing laws, local housing, health and safety codes, or the rental agreement; and
- (6) The pattern of recent rent increases or decreases.
- (a) No upward adjustment of an individual Maximum Allowable Rent shall be authorized by the board under this Section if the landlord:
  - (1) Has continued to fail to comply, after order of the Board, with any provisions of this Ordinance and/or orders or regulations issued thereunder by the Board, or
  - (2) Has failed to bring the rental unit into compliance with the implied warranty of habitability.
- (b) Allowable rent increases pursuant to an individual upward adjustment of the rent ceiling shall become effective only after the landlord gives the tenant at least a thirty (30) day written notice of such rent increase and the notice period expires. If the board makes a downward individual adjustment of the rent ceiling, such rent decrease shall take effect no sooner than thirty (30) days after the effective date set by the board for the downward adjustment.
- (a) No provision of this Ordinance shall be applied so as to prohibit the Rent Board from granting an individual rent adjustment that is demonstrated by the landlord to be necessary to provide the landlord with a fair return on investment. Necessity shall be defined in regulations promulgated by the Board. Limits on the total increase per month and length of monthly increase shall be promulgated by the Board through regulations.

# Sec. 8. Non-waiverability.

Any provision, whether oral or written in or pertaining to a Rental Housing Agreement whereby any provision of this Ordinance for the benefit of the Tenant is waived, shall be deemed to be against public policy and shall be void.

# Sec. 9. Judicial Review.

A Landlord or Tenant aggrieved by any action or decision of the Rent Board may seek judicial review by appealing to the appropriate court within the jurisdiction. No action or decision by the Board shall go into effect until thirty (30) days have expired to allow for such appeal.

### Sec. 10. Remedies.

- (a) Any Landlord who demands, accepts, receives, or retains any payment of Rent in excess of the maximum lawful Rent, in violation of the provisions of this Ordinance or any rule, regulation or order hereunder promulgated, including the provisions ensuring compliance with habitability standards and registration fee requirements, shall be liable in a civil action to the Tenant from whom such payments are demanded, accepted, received or retained, for:
  - Damages in the amount by which the payment or payments demanded, accepted, received or retained which exceeds the maximum lawful Rent;
  - (2) Liquidated damage due to the tenant(s) in question of an amount equal to the payment or payments demanded, accepted, received or retained exceeds the maximum lawful Rent shall be awarded against the Landlord upon a showing of overcharge;
  - (3) Reasonable attorney's fees and costs as determined by the court; and
  - (4) If it is found, by a preponderance of the evidence, that the Landlord has acted willfully or with oppression, fraud or malice, the court may award general and special damages, including consequential, and emotional distress.

No administrative remedy need be exhausted prior to filing suit pursuant to this Subsection.

- (b) In lieu of filing a civil action, a Tenant may file an administrative complaint. The Rent Board shall establish by rule and regulation a hearing procedure similar to that set forth in Section 7(e).
  - (1) The rules and regulations adopted by the Board shall provide for final Rent Board action on any complaint for excess Rent within one-hundred twenty (120) days following the date of filing of the complaint.
  - (2) In any administrative hearing under this Section, a Landlord who demands, accepts, receives or retains any payment of Rent in excess of the maximum lawful Rent shall be liable for damages in the amount by which the payment or payments demanded, accepted, received or retained exceeds the maximum lawful Rent. Additionally, the tenant will be entitled to costs, expenses incurred in pursuing the hearing remedy, damages and penalties. The Tenant may deduct the penalty and award of damages from future Rent payments in the manner provided by the Rent Board. An order authorizing Rent withholding under

this Ordinance shall survive the sale or other transfer of the Property and shall be binding upon successors of the Landlord against whom the order was made. If a Tenant authorized to withhold Rent under this Ordinance vacates the Property, the Landlord shall pay to such Tenant a sum equal to the balance of the Rent that the Tenant could have withheld.

- (c) If the Tenant from whom such excessive payment is demanded, acce, received or retained in violation of the foregoing provisions of this Ordinance or any rule or regulation or order hereunder promulgated fails to bring a civil or administrative action as provided for in Sections 10(b) (c) within one hundred twenty (120) days from the date of occurrence of the violation, the Rent Board may settle the claim arising out of the violation or bring such action. Thereafter, the Tenant on whose behalf the Board acted is barred from also bringing an action against the Landlord in regard to the same violation for which the Board has made a settlement or brought action. In the event the Board settles said claim, it shall be entitled to retain the costs it incurred in settlement thereof, and the Tenant against whom the violation has been committed shall be entitled to the remainder.
- (a) The appropriate court in the jurisdiction in which the Rental Unit affected is located shall have jurisdiction over all actions brought under this Section.
- (b) Any Landlord violating this Ordinance shall be guilty of a misdemeanor and shall be punished in accordance with Section 1-5.1 of the Alameda Municipal Code.

# Sec. 11. Injunctive and Other Civil Relief.

The Rent Board, and Tenants and Landlords of Rental Units, may seek relief from the appropriate court within the jurisdiction within which the affected Rental Unit is located to enforce any provision of this Ordinance or its implementing regulations or to restrain or enjoin any violation of this Ordinance and of the rules, regulations, orders and decisions of the Board.

# Sec. 12. Partial Invalidity.

If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. This Ordinance shall be liberally construed to achieve the purposes of this Ordinance and to preserve its validity.

# Sec. 13. Supersedes.

This Ordinance shall supersede any ordinance passed by the National City Council covering the area of rents or evictions.

# Sec. 14. Majority Approval, Effective Date, Execution.

This Ordinance shall be effective only if approved by a majority of the voters voting

thereon and shall go into effect ten (10) days after the vote is declared by the City Council. The Mayor and City Clerk are hereby authorized to execute this Ordinance to give evidence of its adoption by the voters.

The following page(s) contain the backup material for Agenda Item: Resolution of the City Council of the City of National City authorizing the filing of an impartial analysis and written arguments relating to a measure to approve an Ordinance establishing a program of residential rent control, including creation of an in

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018	AGENDA ITEM NO.
ITEM TITLE:	
Resolution of the City Council of the City of Nationarelating to a measure to approve an Ordinance e	al City authorizing the filing of an Impartial Analysis and written arguments stablishing a program of residential rent control, including creation of an otections, and rent stabilization provisions. (City Clerk)
PREPARED BY: Michael R. Dalla	DEPARTMENT: City Clerk
PHONE: 619-336-4226	APPROVED BY:
EXPLANATION:	
	ion to the voters, Sections 9280 and 9281 of the Election Code authorizes Attorney and submission of arguments for and against the measure. The s.
FINANCIAL STATEMENT:	APPROVED: Finance
ACCOUNT NO.	APPROVED: MIS
001-402-021-212-000 Elections	
\$50,000 has been budgeted for our Municipal Elect at this time.	tion. Adding a measure to the ballot may result in additional costs, unknow
ENVIRONMENTAL REVIEW:	
ORDINANCE: INTRODUCTION: FIN	NAL ADOPTION:
STAFF RECOMMENDATION:	
Adopt the Resolution.	
7 (2 ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) (	
BOARD / COMMISSION RECOMMENDATIO	<u>N:</u>
ATTACHMENTS:	
Resolution.	

### RESOLUTION 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AUTHORIZING THE FILING OF AN IMPARTIAL ANALYSIS AND WRITTEN ARGUMENTS RELATING TO A MEASURE TO APPROVE AN ORDINANCE ESTABLISHING A PROGRAM OF RESIDENTIAL RENT CONTROL, INCLUDING CREATION OF AN INDEPENDENT RENT BOARD, JUST CAUSE FOR EVICTION PROTECTIONS, AND RENT STABILIZATION PROVISIONS

WHEREAS, pursuant to the authority provided under the California Elections Code, a petition has been filed with the City Council of the City of National City, signed by more than ten (10) percent of the number of registered voters of the City, to submit a proposed ordinance establishing a program of residential rent control, including creation of an independent rent board, and including just cause for eviction protections and rent stabilization provisions; and

WHEREAS, the City Clerk has caused to be examined the records of registration, and it has been determined that the petition was signed by the requisite number of voters, and the petition has been so certified; and

WHEREAS, the City Council is authorized and directed by the Elections Code to submit the proposed ordinance to the qualified voters of the City; and

WHEREAS, pursuant to the Elections Code, the City Council hereby submits the proposed ordinance to the qualified voters of the City at the general municipal election to be held on November 6, 2018; and

WHEREAS, the City Council has passed a Resolution entitled "Resolution of the City Council of the City of National City Ordering the Submission of a Measure to the Qualified Voters of the City of National City at the General Municipal Election to be held on November 6, 2018, Relating to Approval of an Ordinance Establishing a Program of Residential Rent Control, Including Creation of an Independent Rent Board, and Including Just Cause for Eviction Protections and Rent Stabilization Provisions;" and

WHEREAS, the City Council desires that the election called under the Resolution be consolidated with any other election to occur on November 6, 2018, in the territory of the City and that said measure be included on the ballot for said election; and

WHEREAS, Section 9280 of the California Elections Code authorizes the filing of an impartial analysis, and Sections 9281-9283 of said Code authorize the filing of written arguments for or against any ballot proposition.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, AS FOLLOWS:

### Section 1. <u>City Attorney's Impartial Analysis.</u>

a. The City Clerk is hereby directed to submit to the City Attorney a certified copy of the Resolution. City Attorney is hereby authorized and directed to prepare an impartial analysis of the proposition specified in the Resolution showing the effect of the measure on the existing law and the operation of the measure, said analysis to be submitted by the City

Resolution No. 2018 -July 24, 2018 Page Two

Attorney to the City Clerk for printing before the arguments for and against the measure. The analysis shall not exceed 500 words in length and shall otherwise comply in all respects with the applicable provisions of the California Elections Code. The deadline for submittal of the analysis shall be as required by the City Clerk.

b. In the event the entire text of the measure is not printed on the ballot, nor in the voter information of the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of a Measure to Establish a Program of Residential Rent Control, Including Just Cause for Eviction and Rent Stabilization Provisions, and Creating a Five-Member Rent Board to Administer and Enforce the Program". If you desire a copy of the ordinance or measure, please call the City Clerk's office at (619) 336-4226 and a copy will be mailed at no cost to you."

Section 2. <u>Authorization to File Written Argument</u>. The Mayor and the City Council, or their designee, are hereby authorized to prepare and file a written argument for or against the proposition to be submitted at said municipal election. All written arguments for or against the proposition shall not exceed 300 words in length and shall otherwise conform to and comply with all applicable provisions of the California Elections Code. The deadline date for the submittal of arguments, in favor or in opposition, shall be as required by the City Clerk under Section 9286 of the California Elections Code.

PASSED and ADOPTED this 24th day of July, 2018.

ATTEST:	Ron Morrison, Mayor	
Michael R. Dalla, City Clerk		
APPROVED AS TO FORM:		
Angil P. Morris-Jones City Attorney		

The following page(s) contain the backup material for Agenda Item: Update on the status of finalizing Maintenance and Operating Agreements with the National City Historical Society, National City Living History Farm Preserve and the San Diego Electric Railway Association for consideration by the City Council. (Housing &

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018 AGENDA ITEM NO. ITEM TITLE: Update on the status of finalizing Maintenance and Operating Agreements with the National City Historical Society, National City Living History Farm Preserve, and the San Diego Electric Railway Association for consideration by the City Council. Housing & Economic Gregory Rose, Property Agent DEPARTMENT: PREPARED BY: Development PHONE: 619.336.4266 APPROVED BY: **EXPLANATION:** See Attachment No. 1. **Finance** APPROVED: FINANCIAL STATEMENT: ACCOUNT NO. n/a MIS APPROVED: **ENVIRONMENTAL REVIEW:** n/a ORDINANCE: INTRODUCTION: FINAL ADOPTION: STAFF RECOMMENDATION: n/a BOARD / COMMISSION RECOMMENDATION: n/a ATTACHMENTS: 1. Background

### **Background Report**

As a result of legislation (ABX1 26) signed by Governor Brown in June 2011, all redevelopment agencies throughout California were dissolved as of February 1, 2012 and successor agencies were established to wind down the affairs of the former redevelopment agencies. City of National City accepted the transfer of certain Real Property from the Successor Agency to the Community Development Commission as the National City Redevelopment Agency on May 17, 2016. These properties are to be retained by the City of National City for governmental use and future development.

Three historically significant properties were transferred to the City and were retained for government use as historical sites and museums available to the public. They are the National City Depot, the Frank Kimball House and the Stein Family Farm. The existing leases and agreements were negotiated with the former Community Development Commission. In an attempt to update agreements with all the City-owned historic site operators ("Site Operators") in National City to include adequate insurance provisions and consistent operating standards, new Maintenance and Operating Agreements ("M&O Agreements") for the Site Operators were offered. The new M&O Agreements would also aid their fundraising efforts by allowing the Site Operators to hold fundraising or third party events with the City's consent. The M&O Agreements also requires reporting to the City of their activities.

The draft M&O Agreements were sent out to the Site Operators on April 17, 2018. The Site Operators were asked to make edits and comments on the document and send the draft M&O Agreements back to the City. The City would review their edits and comments, then set up a meeting to discuss the edits & comments and negotiate the M&O Agreements. On June 6<sup>th</sup> a reminder email was sent out asking to get the draft M&O Agreements back to the City by the end of June.

### Status of the Draft Maintenance Agreements with Historic Site Operators

**San Diego Electric Railway Association, Inc.**, ("Depot"), is the operator of the National City Depot. The Depot currently has an existing lease that expires in 2023.

The major differences between the draft M&O Agreement and existing lease:

- Renegotiate terms to a 5 year lease with three additional 5 year options.
- Require a detailed accounting of activities
- Allow the Depot to serve alcohol at their onsite fundraisers
- Allow the Depot to rent to third parties to use the Depot for events as a way to raise funds.
- Further define repair and maintenance obligations.

History of communication presenting the draft M&O Agreement:

- On May 9<sup>th</sup> the Depot came in to City Hall for a meeting to ask question they had about the M&O Agreement.

 On June 19<sup>th</sup> the City received the Depot's M&O Agreement with their edits and comments. The edits and comments are currently being reviewed by the City Attorney's office. A meeting will be set up with the Depot to finalize the M&O Agreement.

**National City Living History Farm Preserve, Inc.**, ("Stein Farm"), is the operator of the Stein Farm. The prior lease with Stein Farm has expired in 2002 and is currently on holdover.

The major differences between the draft M&O Agreement and holdover lease:

- Set terms of 5 years lease with three additional 5 year options
- Require a detailed accounting of activities
- Allow Stein Farm to serve alcohol at their onsite fundraisers
- Allow Stein Farm to rent to third parties to use the farm for events as a way to raise funds.
- Further define repair and maintenance obligations.

History of communication presenting the draft M&O Agreement:

- On May 29<sup>th</sup> Stein Farm has informed the City orally that they have not had an opportunity to review the M&O Agreement. Currently the Stein Farm is moving and rehabilitating a Victorian home on the farm.
- On June 20<sup>th</sup> an email follow-up was sent and the reply was that they were still too busy with the house move to review it as of June 20<sup>th</sup>.

**National City Historical Society**, ("Historical Society"), is the operator of the Frank Kimball House. The Historical Society currently has an existing lease that expires in 2023.

The major differences between the draft M&O Agreement and existing lease:

- Renegotiate terms to a 5 year lease with three additional 5 year options.
- Allow the Historical Society to serve alcohol at their onsite fundraisers.
- Allow a member of the Historical Society to occupy the second floor of the Kimball House as a caretaker. The current lease states that the Historical Society shall have no access to the second floor.
- Require a detailed accounting of activities.
- Further define repair and maintenance obligations.

History of communication presenting the draft M&O Agreement:

- On April 18<sup>th</sup> the City was notified that the Historical Society wanted to keep their existing lease.
- On April 24<sup>th</sup> the City was notified that the Historical Society wanted 10 copies of the draft M&O Agreement to take to their board.
- On May 15<sup>th</sup> the Historical Society met with city staff to discuss.
- On June 7<sup>th</sup> the City was notified that the Historical Society wanted to keep their existing lease.

# **Next Steps**

On July 12, 2018, staff provided the following timeline to the Site Operators setting the dates to provide final comments on the M&O Agreements to present to the City Council for consideration.

<u>Task</u>	<u>Deadline</u>
Get edits and comments back from the Site Operators	8/1/2018
Finish City review of edits and comments	8/14/2018
Meet with Site Operators to finalize M&O Agreements	8/28/2018
Present M&O Agreements to City Council for consideration	9/18/2018

The following page(s) contain the backup material for Agenda Item: Results of investigations by Lozano Smith, Attorneys at Law into the allegations against Councilmember Cano and the allegation against Councilmember Rios. (City Attorney)

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

EETING DATE:	Odiy 24, 2010		
ITEM TITLE:	tigations by Lazana Smith Atta	rneys at Law into the allegations	against
Councilmember	Cano and the allegation agains	t Councilmember Rios. (City Atte	orney)
		DEDARTMENT.	City Attornov
PREPARED BY:	Nicole Pedone	DEPARTMENT:	City Attorney
PHONE: EXPLANATION:	Ext. 4221	APPROVED BY:	The
Out report will	ho procented by attorney Willia	m P. Curley, III, of Lozano Smith	, Attorneys at Law.
Oral report will	be presented by attorney william		

	APPROVED:	Finance
FINANCIAL STATEMENT: ACCOUNT NO.	APPROVED:	MIS
N/A		
ENVIRONMENTAL REVIEW:		
N/A		
the state of the s		
ORDINANCE: INTRODUCTION:	FINAL ADOPTION:	
ORDINANCE: INTRODUCTION:	FINAL ADOPTION:	
STAFF RECOMMENDATION:	FINAL ADOPTION:	
	FINAL ADOPTION:	
STAFF RECOMMENDATION: N/A		
STAFF RECOMMENDATION:		

The following page(s) contain the backup material for Agenda Item: City Council discussion and direction on draft City Council Policy #119 - Code of Ethics and Conduct for Elected Officials, Council Appointed Officials, and Members of City Boards, Commissions and Committees. (City Manager)

# CITY OF NATIONAL CITY, CALIFORNIA COUNCIL AGENDA STATEMENT

MEETING DATE: July 24, 2018 AGENDA ITEM NO.

ITEM TITLE: City Council discussion and direction on draft Conduct for City Officials, Council Appointed Officials, and Me Committees (City Manager)		
PREPARED BY: Leslie Deese, City Manager  PHONE: 619.336.4242  EXPLANATION:  Please see attached staff report.	DEPARTMENT: Ci	ty Manager
FINANCIAL STATEMENT: ACCOUNT NO. N/A	APPROVED:	Finance MIS
ENVIRONMENTAL REVIEW:  N/A  ORDINANCE: INTRODUCTION: FINAL ADOPTION	N:	
STAFF RECOMMENDATION: City Council direction requested  BOARD / COMMISSION RECOMMENDATION: N/A		
ATTACHMENTS:  1. Staff Report 2. Draft Council Policy #119 – Code of Ethics and Condu	ıct	

### ITEM

City Council discussion and direction on City Council Policy #119 – *Draft* Code of Ethics and Conduct for City Officials, Council Appointed Officials, and Members of City Boards, Commissions and Committees

### **BACKGROUND**

At the May 15, 2018 meeting of the City Council of the City of National City, staff was directed to develop a Code of Ethics and Conduct for a future agenda. Subsequently, at the July 3, 2018 Council meeting, staff was directed to schedule the item for the July 24, 2018 meeting.

### DISCUSSION

It is not uncommon for city councils to adopt policies on ethics and conduct. Such policies set forth principles of conduct within an organization that guide decision-making and behavior, clarify an organization's principles and values, establish standards and encourage effective decision-making. An ethics and conduct policy also:

- promotes and maintains the highest standards of personal and professional conduct in the city's government;
- facilitates collaboration and serves as a framework for decorum between individual members and the elected body as a whole and guide council, staff, and commission conduct;
- emphasizes respect for those with divergent viewpoints;

As proposed, National City's Code of Ethics and Conduct provides a framework to assure public confidence in the integrity of local government and its effective and fair operation, guides public officials in their daily duties, and describes the manner in which public officials should treat one another, staff, constituents, and others they come into contact with in representing the City of National City.

Staff recommends the provisions of the Code apply to the Mayor and members of the City Council, the Council appointed positions of City Manager and City Attorney, and to all members of the boards, commissions, and committees established by the National City Municipal Code, ordinance or policy, including any ad-hoc committees. Given the importance of this policy, I will be exploring implementing a similar Code of Ethics and Conduct for all employees, subject to any required collective bargaining obligations.

It is important to note that the proposed Code does not specifically address rules of order, decorum, procedures or protocols specific to public meetings. Should the Council want to address public meetings, staff recommends updating City Council Policy #104, "Conduct of City Council Meetings".

TITLE:	Code of Ethics and Conduct for Elected Official Council Appointed Officials and Members of C Boards, Commissions and Committees	•
ADOPTI	ED: AME	NDED:

I.

### **PURPOSE**

The City Council of the City of National City ("City") has adopted a Code of Ethics and Conduct ("Code") for all National City elected officials, council appointed officials, and members of the City's boards, commissions and committees, to assure public confidence in the integrity of local government and its effective and fair operation. The people of National City expect public officials, both elected and appointed, to comply with both the letter and the spirit of the laws of the State of California, the United States of America, and the Municipal Code and established policies of the City of National City affecting the operations of local government.

While it is not possible to anticipate and provide a rule of conduct and ethics for all situations that public officials may fave, this Code of Ethics and Conduct is designed to provide a framework to guide public officials in their daily duties and describe the manner in which members should treat one another, staff, constituents, and others they come into contact with in representing the City of National City. The term "member" refers to any National City elected official, council appointed official, and member of any city board, commission and committee established by the National City Manicipal Code, ordinance or policy.

The constant theme throughout the Code is "respect" and "civility". Elected officials experience large workleads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, officials are called upon to exhibit civil and ethical behavior at all times. Demonstrating respect for each individual through words and actions is the standard that can help members to do the right thing in even the most difficult situations.

While it is understood that there are numerous federal and state laws that guide the ethical behavior of public officials, the City wishes to establish that this is a community whose ethical values are clearly stated and fully understood by its members to represent the values this community holds in highest regard. The Code addresses various aspects related to the governance of the City and supplements, but does not supplant, other laws and rules that prescribe the legal responsibilities of City officials. All persons covered by this Code will aspire to meet the highest ethical standards in the conduct of their responsibility as an elected or appointed official of the City of National City.

TITLE:	Code of Ethics and Conduct for Elected Council Appointed Officials and Member Boards, Commissions and Committees	ers of City	POLICY: #119
ADOPT]	ED:	AMENDE	ED:

Members are expected to be familiar with these laws to ensure that they exercise their public responsibilities in a proper fashion, including, but not limited to the Federal and State Constitutions, various provisions of the California Government Code (such as the Brown Act and the Political Reform Act), the Labor Code, laws prohibiting discrimination and harassment, and the City of National City Municipal Code and policies.

II.

### SCOPE

The provisions of this Code of Ethics and Conduct shall apply to the Mayor and members of the City Council, the Council appointed positions of the Manager and City Attorney, and to all members of the boards, commissions, and committees appointed by the Mayor or the Mayor and City Council established by the City of National City Municipal Code, ordinance or policy, including any ad-hoc committees.

**III**.

# ROLICY

The City Council of the City of National City sets forth the following Code of Ethics and Conduct with the expectation that all National City elected officials, Council appointed officials, and board and commission members will incorporate the spirit of this document into their daily lives and will represent the community with the utmost integrity

- 1. Use of Office. Public office shall be used for the public good and not for personal gain. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of National City and not for any private or personal interest. Members will assure fair and equal treatment of all persons, claims and transactions doming before the city council, boards and commissions.
- 2. **Conduct.** The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall treat other elected officials, Council appointed officials, City staff, board, commission and committee members, and the public with civility and respect. Harassment by any member for whatever motive is harmful to the environment desired by the City and will not be permitted. Members shall

refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other elected officials, Council appointed officials, City staff, board, commission and committee members, or the public. No physical or verbal actions that could be construed as threatening or bullying will be tolerated. Belligerent, personal, demeaning, intimidating, slanderous, threatening, abusive, or disparaging comments that affect the ability to work, conduct business, or take part in City government are not consistent with the standards of civility and respect referenced in this policy and are unacceptable.

- 3. Role Models. Members shall conduct themselves in a way that brings pride to the community and not in a way that brings disdain embarrassment, or mockery. Members shall perform as role models for the community with an atmosphere of respect and bivility.
- 4. Positive Work Place Environment. Members shall support the maintenance of a positive and constructive work place environment for City employees and for residents and businesses dealing with the City. Members shall recognize their specializate in dealings with city employees to in no way create the perception of image poriate direction to staff.
- Fespect for Process Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board, commissions and committees governing the deliberation of public policy issues, meaningful and lyement of the public, and implementation of Council policy decisions by City staff.
- 6. Communication Members shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards, commissions and committees, which they may have received from sources outside at the public decision-making process.
- 7. Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall

TITLE:	Code of Ethics and Conduct for Elected Council Appointed Officials and Membe Boards, Commissions and Committees	•	POLICY: #119
ADOPTI	ED:	AMENDEI	D:

abstain from participating in deliberations and decision-making where conflicts may exist.

- 8. **Gifts and Favors**. Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
- 9. Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the city. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal financial or other private interests.
- 10. Use of Public Resources. Members shall not use public resources not available to the public in general, such as City steff-time, equipment, supplies or facilities, for private gain of personal purposes.
- 11. Advocacy. Members shall represent the official policies or positions of the City Council, board, commission of committee to the best of their ability when representing that body or the City of National City. When presenting their individual opinions and positions members shall explicitly state that they do not represent their body or the City of National City, nor will they allow the inference that they do. Elected officials and board, commission and committee members have the right to endorse candidates for all council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission/committee meetings, or other official City meetings.
- 12. Policy Role Members shall respect and adhere to the council-manager structure of government of the City of National City as outlined in the National City Municipal Code and shall not interfere with the administrative functions of the City or the professional duties of City staff. In this structure, the city council determines the policies of the City with the advice, information and analysis provided by the public, boards, commissions and committees, and City staff. Except as provided by the National City Municipal Code, members shall not interfere with the administrative

TITLE:	Code of Ethics and Conduct for Elected Officials, Council Appointed Officials and Members of City Boards, Commissions and Committees	POLICY: #119
ADOPTI	ED: AMENI	DED:

functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

13. Independence of Boards, Commissions and Committees. Because of the value of the independent advice of boards, commissions and committees to the public decision-making process, members shall refrain from using their position to unduly influence the deliberations or outcomes of such proceedings.

IV.

## IMPLEMENTATION AND ENFORCEMENT

This Code of Ethics and Conduct is an expectation of all members entrusted to public service and will be included in the orientations for all elected officials, Council appointed officials, and members of boards commissions and committees.

The City Council may impose sanctions on members whose conduct is not in compliance with the ethical standards as set forth. Those sanctions may include, but are not limited to: reprimand, formal censure, and removal from boards, commissions and committees.

Retaliation for reporting violations of this Code, for seeking to have prohibited conduct corrected, or to participating in an investigation is prohibited.

An annual review of the Code shall be conducted to ensure that the Code is an effective and vital document.

This policy shall in no way be construed to restrict any type of constitutionally protected speech or activities.

V.

### ETHICS TRAINING – AB 1234

Effective January 1, 2006, California State law (AB 1234) requires, among other things, that local officials that receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles every two years. The requirement applies not only to the governing body of a local agency, but also commissions, committees, board, or other local agency bodies, whether permanent or temporary, decision-making or advisory.

Page 5 of 6

TITLE: Code of Ethics and Conduc	·
Council Appointed Officials and Members of City Boards, Commissions and Committees	
,	
ADOPTED;	AMENDED:

To help local officials meet their ethics training requirements, the City of National City conducts bi-annual training. Additionally, the Institute for Local Government and the Fair Political Practices Commission have developed the ethics training course available on their website. The course has been approved by the Attorney General's Office and Fair Political Practices Commission.

### How to File a Complaint:

- Conflict of Interest, financial or campaign disclosures
  - California Fair Political Practices Commission Phone: 916-322-5660
- Criminal
  - > San Diego County District Attorney's Office Phone: 619-531-4040
  - > State of California Office of the Attorney General, Public Inquiry Unit Phone: 800-952-5225

### **RELATED POLICY REFERENCES**

- National City Municipal Code
- Government Code Section 34851 st. seq.
- Ralph M. Brown Act
- Rosenberg's Rules of Order
- City Council Policy #1.04 Conduct of City Council Meetings
- City Council Policy #108 City Manager as Chief Administrative Officer
- Qity Council Policy #60 Employer-Employee Relations
- @ity Council Pollow #604 Harassment and Discrimination
- City Council Policy #605 / Workplace Violence and Security

## PRIOR POLICY AMENDMENTS

None

The following page(s) contain the backup material for Agenda Item: Resolution of the Community Development Commission-Housing Authority of the City of National City authorizing the Executive Director to execute a Subordination Agreement with Wilmington Trust, National Association, subordinating the Project Deed of Trust

# CITY OF NATIONAL CITY, CALIFORNIA COMMUNITY DEVELOPMENT COMMISSION-HOUSING AUTHORITY COUNCIL AGENDA STATEMENT

MEETING DATE:

July 24, 2018

AGENDA ITEM NO.

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Resolution of the Community Development Commission-Housing Authority of the City of National City authorizing the Executive Director to execute a Subordination Agreement with Wilmington Trust National Association, subordinating the Project Deed of Trust that secures the Declaration of Covenants, Conditions and Restrictions (Tenant Restrictions) on Summercrest Apartments located at 2721 Plaza Boulevard in National City.

PREPARED BY: Carlos Aguirre, Housing & Econ. Dev. Mgr. DEPARTMENT: Housing & Economic Dev.

APPROVED BY:

PHONE: 619 336-4391

2. Resolution

### **EXPLANATION:**

Summercrest Apartments Associates, LP, a limited liability partnership organized under the laws of the State of Delaware ("Borrower") is purchasing and rehabilitating a 372-unit multifamily rental housing project ("Project") known as Summercrest Apartments located at 2721 Plaza Boulevard in National City. In 2001, the Community Development Commission ("CDC-HA") made a loan for \$500,000 from the HOME Investment Partnerships Program and the Low and Moderate Income Fund to assist in the substantial rehabilitation of the Project and the loan was paid in full to the CDC-HA in 2013. In consideration of receiving financial assistance, the CDC-HA restricted the affordability of 370 units through April 15, 2032 by recording a Declaration of Covenants, Conditions, and Restrictions ("Declaration") and securing the Declaration with a Project Deed of Trust ("Deed of Trust"). The Borrower desires to finance the Project with a new mortgage loan from Wilmington Trust National Association ("Lender"). In order to provide the loan, the Lender requires the subordination of the Project Deed of Trust that secures the Declaration. A condition of the CDC-HA executing the Subordination Agreement is having the Borrower execute an

Assignment and Assumption of the Declaration.						
FINANCIAL STATEMENT:	APPROVED:	Finance				
ACCOUNT NO.	APPROVED:	MIS				
There is no fiscal impact to the CDC-HA. Only affordability restrictions under the recorded Declaration of Covenants, Conditions, and Restrictions are currently enforced by the CDC-HA.  ENVIRONMENTAL REVIEW:  N/A						
ORDINANCE: INTRODUCTION: FINAL ADDI	PTION:					
STAFF RECOMMENDATION:						
Staff recommends the adoption of a resolution to ex	ecute the Subordination Agreeme	ent.				
BOARD / COMMISSION RECOMMENDATION:						
N/A	Y.					
ATTACHMENTS:						
1 Subordination Agreement						

Freddie Mac Loan Number:
Property Name: Summercrest Apartments

#### SUBORDINATION AGREEMENT

#### **GOVERNMENTAL ENTITY**

(Direct Purchase of Tax-Exempt Loans) (Revised 1-29-2018)

THIS	SUBORD	INATION A	GREEMEN	T ("Agreen	nent") is	entered in	nto this _	day of
		, 20_	, by and	among <b>W</b>	ILMING	TON TH	RUST, N	ATIONAL
<b>ASSC</b>	CIATION	("Senior	Mortgag	ee"), and	COMN	<b>IUNITY</b>	DEVE	LOPMENT
COM	MISSION	OF THE (	CITY OF I	NATIONAL	CITY,	acting in	its capa	city as the
Housi	ing Author	ity of the Cit	y of Nation	al City ("Sul	ordinate	Mortgage	ee'').	-

## **RECITALS**

- A. **SUMMERCREST APARTMENT ASSOCIATES, LP**, a Delaware limited partnership ("**Borrower**") is the owner of certain land located in San Diego County, California, described in Exhibit A ("**Land**"). The Land is improved with a multifamily rental housing project ("**Improvements**").
- B. CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY ("Governmental Lender"), the original holder of the Senior Note, has made a loan to Borrower in the original principal amount of \$[67,450,000] ("Senior Loan") upon the terms and conditions of a Project Loan Agreement dated as of \_\_\_\_\_\_ ("Senior Loan Agreement") among Governmental Lender, Senior Mortgagee (in its capacity as Fiscal Agent under the Funding Loan Agreement (defined below)) and Borrower in connection with the Mortgaged Property. The Senior Loan is secured by a MULTIFAMILY DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING dated as of \_\_\_\_\_ ("Senior Mortgage") encumbering the Land, the Improvements and related personal and other property described and defined in the Senior Mortgage as the "Mortgaged Property."
- C. Subordinate Mortgagee is the holder of a Declaration of Covenants and Restrictions (Tenant Restrictions) ("Regulatory Agreement") dated December 18, 2001, executed by Plaza Manor Preservation, L.P. (Borrower's predecessor in title) and recorded on June 19, 2002 in the office of the County Recorder of San Diego County, California ("Recording Office") as Document Number 2002-0518422 (as assigned by that certain Assignment and Assumption of Declaration of Covenants and Restrictions (Tenant Restrictions) and Deed of Trust dated December 18, 2013, recorded on December 24, 2013 in the Official Records as Document Number 2013-0735297, the "Regulatory Agreement"), which Regulatory Agreement is secured by that certain Deed of Trust encumbering the Mortgaged Property and recorded June 19, 2002 in the Recording Office as Instrument No. 2002-0518423 (as amended by that certain Amendment to Deed

of Trust (Plaza Manor) dated as of I	December 18, 2013, and recorded on	in
the Recording office on	, as Document Numer	, the
"Subordinate Mortgage")		

- D. The Senior Mortgage will be recorded in the Recording Office prior to the recording of this Agreement.
- E. The Senior Note has been assigned by the Governmental Lender to Senior Mortgagee as security for the loan made by the Funding Lender to the Governmental Lender pursuant to the Funding Loan Agreement (the "Funding Loan"). The Senior Mortgage has been assigned by the Governmental Lender to Senior Mortgagee as security for the Funding Loan pursuant to an Assignment of Security Instrument dated as of the date hereof to be recorded in the Recording Office contemporaneously herewith.
- F. Pursuant to Section 17(c) of the Senior Mortgage and Section 6.03 of the Funding Loan Agreement dated as of \_\_\_\_\_ among Funding Lender, Governmental Lender and Senior Mortgagee (the "Funding Loan Agreement"), the Funding Lender has the right to direct all actions of the Senior Mortgagee with respect to the Senior Mortgage, the Mortgaged Property and the Senior Loan Agreement.
- G. The execution and delivery of this Agreement is a condition of Funding Lender's consenting to Subordinate Mortgagee's making of the Subordinate Loan and Borrower's granting of the Subordinate Mortgage.

# **AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- **1. Definitions.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), will have the following meanings.
  - (a) The terms "Condemnation," "Imposition Reserve Deposits," "Impositions," "Leases," "Rents" and "Restoration," as well as any term used in this Agreement and not otherwise defined in this Agreement, will have the meanings given to those terms in the Continuing Covenant Agreement dated as of \_\_\_\_\_\_ between Funding Lender and Borrower ("Continuing Covenant Agreement").
  - (b) "Bankruptcy Proceeding" means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.
  - (c) "**Borrower**" means all persons or entities identified as "Borrower" in the first Recital of this Agreement, together with their successors and assigns, and any

other person or entity who acquires title to the Mortgaged Property after the date of this Agreement; provided that the term "Borrower" will not include Senior Mortgagee or Funding Lender if Senior Mortgagee or Funding Lender acquires title to the Mortgaged Property.

- (d) "Casualty" means the occurrence of damage to or loss of all or any portion of the Mortgaged Property by fire or other casualty.
- (e) "Enforcement Action" means any of the following actions taken by or at the direction of Subordinate Mortgagee: the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon any Subordinate Documents, the exercising of any lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable under any of the Subordinate Documents, or the Mortgaged Property.
- (f) "Enforcement Action Notice" means a written Notice from Subordinate Mortgagee to Funding Lender, given following one or more Subordinate Mortgage Default(s) and the expiration of any Notice or cure periods provided for such Subordinate Mortgage Default(s) in the Subordinate Documents, setting forth in reasonable detail the Subordinate Mortgage Default(s) and the Enforcement Actions proposed to be taken by Subordinate Mortgagee.
- (g) "Funding Lender" means Jones Lang LaSalle Multifamily, LLC, and any successor holder of the Governmental Note.
- (h) "Governmental Note" means the Multifamily Note delivered by the Governmental Lender evidencing the Funding Loan.
- (i) "Loss Proceeds" means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.
- (j) "Notice" is defined in Section 7(e).
- (k) "Regulatory Agreement" shall have the meaning assigned in the foregoing recitals.
- (l) "Senior Indebtedness" means the "Indebtedness" as defined in the Continuing Covenant Agreement.
- (m) "Senior Loan Documents" means the "Financing Documents" as defined in the Continuing Covenant Agreement.

- (n) "Senior Mortgage Default" means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an "Event of Default" as defined in the Continuing Covenant Agreement.
- (o) "Senior Mortgagee" shall have the meaning assigned on page 1 hereof. When any other person or entity becomes the legal holder of the Senior Note, such other person or entity will automatically become Senior Mortgagee.
- (p) "Senior Note" means the Project Note as defined in the Continuing Covenant Agreement.
- (q) "Subordinate Documents" means the Subordinate Mortgage, the Regulatory Agreement and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the same, as the same may be amended.
- (r) "Subordinate Mortgage Default" means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement), or which with the giving of Notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), Subordinate Mortgagee to take an Enforcement Action.
- (s) "Subordinate Mortgagee" means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Mortgage after the date of this Agreement.

## 2. Subordination of Subordinate Documents.

- (a) The Subordinate Documents are and will at all times continue to be subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.
- (b) Subordinate Mortgagee acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, Subordinate Mortgagee will be deemed to have actual knowledge of a Senior Mortgage Default.
- (c) If (i) Subordinate Mortgagee receives any payment, property, or asset of any kind or in any form on account of the Subordinate Documents (including any proceeds from any Enforcement Action) after a Senior Mortgage Default of which Subordinate Mortgagee has actual knowledge (or is deemed to have actual knowledge as provided in 2(b) above) or has been given Notice, or (ii) Subordinate Mortgagee receives, voluntarily or involuntarily, by operation of law or otherwise, any payment, property, or asset in or in connection with any Bankruptcy Proceeding, such payment, property, or asset will be received and held in trust for Funding Lender. Subordinate Mortgagee will promptly remit, in

kind and properly endorsed as necessary, all such payments, properties, and assets to Funding Lender. Funding Lender will apply any payment, asset, or property so received from Subordinate Mortgagee to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Funding Lender determines in its sole and absolute discretion.

- (d) Without limiting the complete subordination of the Subordinate Documents to the payment in full of the Senior Indebtedness, in any Bankruptcy Proceeding, upon any payment or distribution (whether in cash, property, securities, or otherwise) to creditors (i) the Senior Indebtedness will first be paid in full in cash before Subordinate Mortgagee will be entitled to receive any payment or other distribution on account of or in respect of the Subordinate Documents, and (ii) until all of the Senior Indebtedness is paid in full in cash, any payment or distribution to which Subordinate Mortgagee would be entitled but for this Agreement (whether in cash, property, or other assets) will be made to Funding Lender.
- (e) The subordination of the Subordinate Documents will continue if any payment under the Senior Loan Documents (whether by or on behalf of Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to Borrower or its insolvent estate, or avoided, set aside or required to be paid to Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, any or all of the Senior Indebtedness originally intended to be satisfied will be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Indebtedness had not been made.

# 3. Subordination of Subordinate Documents.

- (a) Each of the Subordinate Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.
- (b) The subordination of the Subordinate Documents will apply and continue notwithstanding (i) the actual date and time of execution, delivery, recording, filing or perfection of each of the Senior Loan Documents and of each of the Subordinate Documents, and (ii) the availability of any collateral to Senior Mortgagee or Funding Lender, including the availability of any collateral other than the Mortgaged Property.
- (c) By reason of, and without in any way limiting, the full subordination of the Subordinate Documents provided for in this Agreement, all rights and claims of Subordinate Mortgagee under the Subordinate Documents in or to all or any portion of the Mortgaged Property are expressly subject and subordinate in all respects to the rights and claims of Senior Mortgagee or Funding Lender under the Senior Loan Documents in or to the Mortgaged Property.

(d) If Subordinate Mortgagee, by indemnification, subrogation or otherwise, acquires any lien, estate, right or other interest in any of the Mortgaged Property, then that lien, estate, right or other interest will be fully subject and subordinate to the receipt by Senior Mortgagee or Funding Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Documents are subordinate pursuant to this Agreement.

# 4. Additional Representations and Covenants.

- (a) Subordinate Mortgagee represents and warrants that each of the following is true:
  - (i) Subordinate Mortgagee is now the owner and holder of the Subordinate Documents.
  - (ii) The Subordinate Documents are now in full force and effect.
  - (iii) The Subordinate Documents have not been modified or amended.
  - (iv) To the actual knowledge of the Subordinate Mortgagee, no Subordinate Mortgage Default has occurred.
  - (v) None of the rights of Subordinate Mortgagee under any of the Subordinate Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise.
- (b) Without the prior written consent of Funding Lender in each instance, Subordinate Mortgagee will not do any of the following:
  - (i) Amend, modify, waive, extend, renew, or replace any provision of any of the Subordinate Documents.
  - (ii) Pledge, assign, transfer, convey, or sell any interest in any of the Subordinate Documents.
  - (iii) [Reserved]
  - (iv) Appear in, defend or bring any action to protect Subordinate Mortgagee's interest in the Mortgaged Property other than an action to enforce the Regulatory Agreement as permitted by Section 5(c) hereof.
  - (v) Take any action concerning environmental matters affecting the Mortgaged Property.
- (c) Subordinate Mortgagee will deliver to Funding Lender a copy of each Notice received or delivered by Subordinate Mortgagee pursuant to the Subordinate Documents or in connection with the Subordinate Documents, simultaneously with Subordinate Mortgagee's delivery or receipt of such Notice. Funding Lender will deliver to Subordinate Mortgagee in the manner required in Section 5(b) a

copy of each Notice of a Senior Mortgage Default delivered to Borrower by Funding Lender. Neither giving nor failing to give a Notice to Funding Lender or Subordinate Mortgagee pursuant to this Section 4(c) will affect the validity of any Notice given by Funding Lender or Subordinate Mortgagee to Borrower, as between Borrower and such of Funding Lender or Subordinate Mortgagee as provided the Notice to Borrower.

- (d) Without the prior written consent of Funding Lender in each instance, Subordinate Mortgagee will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Subordinate Mortgagee will not vote affirmatively in favor of any plan of reorganization or liquidation unless Funding Lender has also voted affirmatively in favor of such plan. In the event of any Bankruptcy Proceeding, Subordinate Mortgagee will not contest the continued accrual of interest on the Senior Indebtedness, in accordance with and at the rates specified in the Senior Loan Documents, both for periods before and for periods after the commencement of such Bankruptcy Proceedings.
- (e) Whenever the Subordinate Documents give Subordinate Mortgagee approval or consent rights with respect to any matter, and a right of approval or consent with regard to the same or substantially the same matter is also granted to Senior Mortgagee or Funding Lender pursuant to the Senior Loan Documents or otherwise, Funding Lender's approval or consent or failure to approve or consent, as the case may be, will be binding on Subordinate Mortgagee. None of the other provisions of this Section 4 are intended to be in any way in limitation of the provisions of this Section 4(e).
- (f) All requirements pertaining to insurance under the Subordinate Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Funding Lender. All original policies of insurance required pursuant to the Senior Loan Documents will be held by Funding Lender. Nothing in this Section 4(f) will preclude Subordinate Mortgagee from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Loss Proceeds, or that Subordinate Mortgagee be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Mortgaged Property.
- (g) In the event of a Condemnation or a Casualty, all of the following provisions will apply:
  - (i) The rights of Subordinate Mortgagee (under the Subordinate Loan or otherwise) to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of,

or to adjust, any claims resulting from a Condemnation or a Casualty, will be and remain subordinate in all respects to Senior Mortgagee's and Funding Lender's rights under the Senior Loan Documents with respect thereto, and Subordinate Mortgagee will be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by Funding Lender.

- (ii) All Loss Proceeds will be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by Funding Lender in its sole discretion.
- (iii) If Funding Lender applies or releases Loss Proceeds for the purposes of Restoration of the Mortgaged Property, then Subordinate Mortgagee will release for such purpose all of its right, title and interest, if any, in and to such Loss Proceeds. If Funding Lender holds Loss Proceeds, or monitors the disbursement thereof, Subordinate Mortgagee will not do so. Nothing contained in this Agreement will be deemed to require Funding Lender to act for or on behalf of Subordinate Mortgagee in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of Subordinate Mortgagee, and all or any Loss Proceeds may be commingled with any funds of Funding Lender.
- (iv) If Funding Lender elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by Funding Lender will be paid to Subordinate Mortgagee unless another party has asserted a claim to the remaining Loss Proceeds.
- (h) Subordinate Mortgagee will enter into attornment and non-disturbance agreements with all tenants under commercial or retail Leases, if any, to whom Senior Mortgagee or Funding Lender has granted attornment and non-disturbance, on the same terms and conditions given by Senior Mortgagee or Funding Lender.
- (i) Except as provided in this Section 4(i), and regardless of any contrary provision in the Subordinate Documents, Subordinate Mortgagee will not collect payments for the purpose of escrowing for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Documents. However, if Funding Lender is not collecting escrow payments for one or more Impositions, Subordinate Mortgagee may collect escrow payments for such Impositions; provided that all payments so collected by Subordinate Mortgagee will be held in trust by Subordinate Mortgagee to be applied only to the payment of such Impositions.
- (j) Within 10 days after request by Funding Lender, Subordinate Mortgagee will furnish Funding Lender with a statement, duly acknowledged and certified

- confirming that there exists no default under the Subordinate Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Documents as Funding Lender may request.
- (k) Senior Mortgagee or Funding Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provision of any of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Subordinate Mortgagee, and without affecting any of the provisions of this Agreement. Notwithstanding the foregoing, neither Senior Mortgagee nor Funding Lender may modify any provision of the Senior Loan Documents that (i) increases the Senior Indebtedness, except for increases in the Senior Indebtedness that result from advances made by Senior Mortgagee or Funding Lender to protect the security or lien priority of Senior Mortgagee or Funding Lender under the Senior Loan Documents or to cure defaults under the Subordinate Documents; (ii) increase the required payments due under the Senior Loan; (iii) decrease the term of the Senior Loan; or (iv) increase the interest rate on the Senior Loan.

## 5. Default Under Loan Documents.

- For a period of 90 days following delivery to Funding Lender of an Enforcement (a) Action Notice, Funding Lender will have the right, but not the obligation, to cure any Subordinate Mortgage Default, provided that if such Subordinate Mortgage Default is a non-monetary default and is not capable of being cured within such 90-day period and Funding Lender has commenced and is diligently pursuing such cure to completion, Funding Lender will have such additional period of time as may be required to cure such Subordinate Mortgage Default or until such time, if ever, as Funding Lender (i) discontinues its pursuit of any cure and/or (ii) delivers to Subordinate Mortgagee Funding Lender's written consent to the Enforcement Action described in the Enforcement Action Notice. Neither Senior Mortgagee nor Funding Lender will be subrogated to the rights of Subordinate Mortgagee under the Subordinate Documents by reason of Funding Lender having cured any Subordinate Mortgage Default. However, Subordinate Mortgagee acknowledges that all amounts advanced or expended by Funding Lender in accordance with the Senior Loan Documents or to cure a Subordinate Mortgage Default will be added to and become a part of the Senior Indebtedness and will be secured by the lien of the Senior Mortgage.
- (b) Funding Lender will deliver to Subordinate Mortgagee a copy of any Notice sent by Funding Lender to Borrower of a Senior Mortgage Default within 5 Business Days of sending such Notice to Borrower. Failure of Funding Lender to send Notice to Subordinate Mortgagee will not prevent the exercise of Funding Lender's rights and remedies under the Senior Loan Documents. Subordinate Mortgagee will have the right, but not the obligation, to cure any monetary Senior Mortgage Default within 30 days following the date of such Notice (or such greater period required by California law); provided, however, that Funding Lender will be entitled during such period to continue to pursue its remedies under the Senior Loan Documents. Subordinate Mortgagee may, within 90 days

after the date of the Notice, cure a non-monetary Senior Mortgage Default if during such 90-day period, Subordinate Mortgagee keeps current all payments required by the Senior Loan Documents. If such a non-monetary Senior Mortgage Default creates an unacceptable level of risk relative to the Mortgaged Property, or Senior Mortgagee's or Funding Lender's secured position relative to the Mortgaged Property, as determined by Funding Lender in its sole discretion, then during such 90-day period Funding Lender may exercise all available rights and remedies to protect and preserve the Mortgaged Property and the Rents, revenues and other proceeds from the Mortgaged Property. Subordinate Mortgagee will not be subrogated to the rights of Senior Mortgagee or Funding Lender under the Senior Loan Documents by reason of Subordinate Mortgagee having cured any Senior Mortgage Default. However, Senior Mortgagee and Funding Lender acknowledge that all amounts paid by Subordinate Mortgagee to Senior Mortgagee or Funding Lender to cure a Senior Mortgage Default will be deemed to have been advanced by Subordinate Mortgagee pursuant to, and will be secured by the lien of, the Subordinate Mortgage. Notwithstanding anything in this Section 5(b) to the contrary, Subordinate Mortgagee's right to cure any Senior Mortgage Default will terminate immediately upon the occurrence of any Bankruptcy Proceeding.

(c) In the event of a Subordinate Mortgage Default, Subordinate Mortgagee will not commence any Enforcement Action until 90 days after Subordinate Mortgagee has delivered to Funding Lender an Enforcement Action Notice with respect to such Enforcement Action, provided that during such 90-day period or such longer period as provided in Section 5(a), Subordinate Mortgagee will be entitled to seek specific performance to enforce covenants and agreements of Borrower contained in the Regulatory Agreement, subject to Funding Lender's right to cure a Subordinate Mortgage Default set forth in Section 5(a). Subordinate Mortgagee may not commence any other Enforcement Action, including any foreclosure action under the Subordinate Documents, until the earlier of (i) the expiration of such 90-day period or such longer period as provided in Section 5(a), or (ii) the delivery by Funding Lender to Subordinate Mortgagee of Funding Lender's written consent to such Enforcement Action by Subordinate Mortgagee. Subordinate Mortgagee acknowledges that Funding Lender may grant or refuse consent to Subordinate Mortgagee's Enforcement Action in Funding Lender's sole and absolute discretion. At the expiration of such 90-day period or such longer period as provided in Section 5(a) and, subject to Funding Lender's right to cure set forth in Section 5(a), Subordinate Mortgagee may commence any Any Enforcement Action on the part of Subordinate Enforcement Action. Mortgagee will be subject to the provisions of this Agreement. Subordinate Mortgagee acknowledges that the provisions of this Section 5(c) are fair and reasonable under the circumstances, that Subordinate Mortgagee has received a substantial benefit from Funding Lender having granted its consent to the Subordinate Mortgage, and that Funding Lender would not have granted such consent without the inclusion of these provisions in this Agreement.

- (d) Senior Mortgagee or Funding Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Subordinate Mortgagee. No action or failure to act on the part of Senior Mortgagee or Funding Lender in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Mortgagee or Funding Lender of any provision of the Senior Loan Documents or this Agreement.
- (e) If the Enforcement Action taken by Subordinate Mortgagee is the appointment of a receiver for any of the Mortgaged Property, all of the Rents, issues, profits and proceeds collected by the receiver will be paid and applied by the receiver solely to and for the benefit of Senior Mortgagee or Funding Lender until the Senior Indebtedness will have been paid in full.
- (f) Subordinate Mortgagee consents to and authorizes the release by Senior Mortgagee or Funding Lender of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. Subordinate Mortgagee waives to the fullest extent permitted by law, all equitable or other rights it may have (i) in connection with the release of all or any portion of the Mortgaged Property, (ii) to require the separate sale of any portion of the Mortgaged Property, (iii) to require Senior Mortgagee or Funding Lender to exhaust its remedies against all or any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness, or (iv) to require Senior Mortgagee or Funding Lender to proceed against Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as Senior Mortgagee or Funding Lender determines. Subordinate Mortgagee waives to the fullest extent permitted by law any and all benefits under California Civil Code Sections 2845, 2849 and 2850.] Subordinate Mortgagee consents to and authorizes, at the option of Senior Mortgagee or Funding Lender, the sale, either separately or together, of all or any portion of the Mortgaged Property. Subordinate Mortgagee acknowledges that without Notice to Subordinate Mortgagee and without affecting any of the provisions of this Agreement, Senior Mortgagee or Funding Lender may (i) extend the time for or waive any payment or performance under the Senior Loan Documents; (ii) modify or amend in any respect any provision of the Senior Loan Documents; and (iii) modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Indebtedness.
- (g) If any party other than Borrower (including Senior Mortgagee or Funding Lender) acquires title to any of the Mortgaged Property pursuant to a foreclosure of, or trustee's sale or other exercise of any power of sale under, the Senior Mortgage conducted in accordance with applicable law, the lien, operation, and effect of the

Subordinate Mortgage and other Subordinate Documents automatically will terminate with respect to such Mortgaged Property.

## 6. Miscellaneous Provisions.

- (a) This Agreement represents the entire understanding and agreement between the parties with regard to the matters addressed herein, and will supersede and cancel any prior agreements with regard to such matters.
- (b) If there is any conflict or inconsistency between the terms of the Subordinate Documents and the terms of this Agreement, then the terms of this Agreement will control.
- (c) This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement. No other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise.
- (d) If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (e) Each notice, request, demand, consent, approval or other communication (collectively, "Notices," and singly, a "Notice") which is required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:
  - (i) Notices intended for Senior Mortgagee will be addressed to:

[Name]

[Address]

Attention:

Facsimile:

Telephone:

(ii) Notices intended for Subordinate Mortgagee will be addressed to:

Community Development Commission Housing Authority of the City of National City 140 East 12<sup>th</sup> Street, Suite B National City, CA 91950 Attention: Executive Director

(iii) Notices intended for Funding Lender will be addressed to:

[Name] [Address] Attention: Facsimile: Telephone:

Any party, by Notice given pursuant to this Section, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section.

- (f) Upon Notice from Funding Lender, Subordinate Mortgagee will execute and deliver such additional instruments and documents, and will take such actions, as are required by Funding Lender in order to further evidence or implement the provisions and intent of this Agreement.
- (g) This Agreement will be governed by the laws of the State in which the Land is located.
- (h) Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.
- (i) No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.
- (j) Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.
- (k) This Agreement shall inure to the benefit of any subsequent holder of the Senior Indebtedness.

- (l) This Agreement may be amended, changed, modified, altered or terminated only by a written instrument or written instruments signed by the parties to this Agreement or their successors or assigns.
- (m) This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- The term of this Agreement will commence on the date of this Agreement and (n) will continue until the earliest to occur of the following events: (i) the payment of all of the Senior Indebtedness; provided that this Agreement will be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by Senior Mortgagee or Funding Lender as described in Section 2(e) of this Agreement, (ii) the release or reconveyance of the Subordinate Mortgage and termination of the Regulatory Agreement, (iii) the acquisition by Senior Mortgagee or Funding Lender or by a third party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage; or (iv) with the prior written consent of Funding Lender, without limiting the provisions of Section 5(d), the acquisition by Subordinate Mortgagee of title to the Mortgaged Property subject to the Senior Mortgage pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Mortgage.
- (o) This Agreement does not constitute an approval by Senior Mortgagee or Funding Lender of the terms of the Subordinate Documents.
- (p) Nothing in this Agreement or in any of the Senior Loan Documents or Subordinate Documents will be deemed to constitute Senior Mortgagee or Funding Lender as a joint venturer or partner of Subordinate Mortgagee.
- (q) Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Mortgagee of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Mortgaged Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.
- (r) Notwithstanding anything herein to the contrary, pursuant to Section 17(c) of the Senior Mortgage and Section 6.03 of the Funding Loan Agreement, all acts, consents, approvals and undertakings of Senior Mortgagee hereunder shall be solely at the written direction of the Funding Lender. The parties acknowledge and agree that Funding Lender is a third party beneficiary of this Agreement, with full rights as such.

[Signature and acknowledgment pages follow]

recordation]

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the day and year first above written.

Block

[Notary

WILMINGTON ASSOCIATION	TRUST	NATION
By:		
By: Name:		

for

# **SUBORDINATE MORTGAGEE:**

COMMUNITY	<i>T</i>	DEV	ELOPM	<b>IENT</b>
COMMISSION	I OF	THE	CITY	OF
NATIONAL	CITY,	ACTIN	G IN	ITS
CAPACITY	AS	THE	HOU	SING
AUTHORITY	OF	THE	CITY	OF
NATIONAL C	ITY			

By:	
Leslie Deese, Executive Director	

APPROVED AS TO FORM Angil P. Morris-Jones CDC-HA General Counsel

By:\_\_\_\_

Roberto Contreras Deputy CDC-HA General Counsel

[Notary Block for recordation]

# **CONSENT OF BORROWER**

Borrower	acknowledges	receipt of a	copy	of th	is Subordination Agreement, dated
	ATION and CO	MMUNITY D	EVEL	OPME	TINGTON TRUST, NATIONAL NT COMMISSION OF THE CITY the parties set forth in this Agreement.
					APARTMENT ASSOCIATES, LP, partnership
		Ву:			t GP, LLC, a Delaware limited liability Co-Managing General Partner
			By:		ola Capital Group, LLC, a Washington ed liability company, its Sole Managing ber
				By:	The Gary C. Grant Trust, a California Trust, dated November 26, 2002, its Sole Member
					By:
					By: Gary C. Grant, Trustee
		Ву:	a Cali	ifornia	ercrest, LLC, limited liability company, g General Partner
			By:	a Cal	Pacific Affordable Housing Corp., ifornia nonprofit public benefit pration, its Sole Member
				By:	
				Nam	e:
				Titla	

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFO		
COUNTY OF	) ss. 	
On	peared	, Notary
proved to me on the b subscribed to the with in his/her/their author	peared	son(s) whose name(s) is/are at he/she/they executed the same r signature(s) on the instrument
I certify under PEN. foregoing paragraph	ALTY OF PERJURY under the laws of is true and correct.	the State of California that the
WITNESS my	y hand and official seal.	
 Notary	Public (Seal)	

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFOR	,	
COUNTY OF	) ss. )	
On	before me,	, Notary
Public, personally app	earedasis of satisfactory evidence to be the per	, who
in his/her/their authori the person(s), or the en	in instrument and acknowledged to me the zed capacity(ies), and that by his/her/then tity upon behalf of which the person(s) ALTY OF PERJURY under the laws of strue and correct.	or signature(s) on the instrument acted, executed the instrument.
WITNESS my	hand and official seal.	
Notary	(Seal)	

#### **EXHIBIT A**

## **LEGAL DESCRIPTION**

The land referred to in this Commitment is situated in the City of National City, County of San Diego, State of California, and is described as follows:

#### PARCEL A:

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF QUARTER SECTION 106 OF RANCHO DE LA NACION, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 166 ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID QUARTER SECTION IN THE CENTER LINE OF A PUBLIC STREET, 80.00 FEET WIDE, RUNNING THENCE SOUTH 71°11'05" WEST (RECORD SOUTH 71° WEST) ALONG THE NORTHERLY LINE OF SAID QUARTER SECTION A DISTANCE OF 665.03 FEET (RECORD 660.00 FEET MORE OR LESS) TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN DEED TO HERMAN TO CROW RECORDED IN BOOK 498, PAGE 474 OF DEEDS, SAID POINT BEING ALSO THE NORTHWEST CORNER OF THE SAID EAST HALF OF THE NORTHWEST QUARTER OF SECTION 106; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID EASTERLY HALF OF THE NORTHWEST QUARTER OF QUARTER SECTION 106, SOUTH 18°36'22" EAST (RECORD SOUTH 19° EAST), 440.00 FEET TO THE SOUTHERLY LINE OF THE NORTHERLY 440.00 FEET OF SAID QUARTER SECTION, BEING ALSO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE SOUTH 18°36'22" EAST (RECORD SOUTH 19° EAST), 701.30 FEET TO AND ALONG THE EASTERLY BOUNDARY OF THE LAND DESCRIBED IN DEED TO O.A. STAUDE, RECORDED IN BOOK 714, PAGE 411 OF DEEDS TO THE NORTHERLY LINE OF THE SOUTHERLY

179.00 FEET OF SAID NORTHWEST QUARTER; THENCE EASTERLY ALONG SAID NORTHERLY LINE NORTH 71°20′35" EAST, 663.37 FEET TO A POINT ON THE EASTERLY LINE OF SAID NORTHWEST QUARTER OF QUARTER SECTION 106; THENCE NORTHERLY ALONG SAID EASTERLY LINE NORTH 18°31′23" WEST (RECORD NORTH 19° WEST), 208.95 FEET; THENCE LEAVING SAID LINE SOUTH 71°16′22" WEST, 30.00 FEET; THENCE NORTHERLY PARALLEL WITH THE EASTERLY LINE OF SAID NORTHWEST QUARTER OF QUARTER SECTION 106, NORTH 18°31′23" WEST, 302.50 FEET; THENCE NORTH 71°16′22" EAST, 30.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID NORTHWEST QUARTER OF QUARTER SECTION 106; THENCE NORTHERLY ALONG SAID LINE NORTH 18°31′23" WEST, 191.68 FEET TO THE SOUTHERLY LINE OF THE NORTHERLY 440.00 FEET OF SAID QUARTER SECTION; THENCE SOUTH 71°11′05" WEST, 664.39 FEET TO THE TRUE POINT OF BEGINNING.

#### PARCEL B:

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF QUARTER SECTION 106 OF RANCHO DE LA NACION, IN THE CITY OF NATIONAL CITY,

COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY MORRILL NO. 166, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MAY 11, 1869, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 12 OF TRUESDELL PLACE, ACCORDING TO MAP THEREOF NO. 1735, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 05, 1922; THENCE SOUTH 18°29'09" EAST ALONG THE SOUTHWESTERLY LINE OF SAID MAP NO. 1735, TO AND ALONG THE SOUTHWESTERLY LINE OF ORCHARD MANOR, ACCORDING TO MAP THEREOF NO. 3627, FILED IN THE OFFICE OF SAID COUNTY RECORDER, APRIL 22, 1957, A DISTANCE OF 302.50 FEET TO INTERSECTION WITH THE SOUTHWESTERLY PROLONGATION OF THE SOUTHEASTERLY LINE OF 11TH STREET AS SHOWN ON SAID MAP NO. 3627; THENCE SOUTH 71°18'36" WEST ALONG SAID PROLONGATION 30.00 FEET; THENCE NORTH 18°29'09" WEST PARALLEL WITH SAID SOUTHWESTERLY LINES OF MAPS NO'S. 3627 AND 1735, RESPECTIVELY, 302.50 FEET TO A POINT OF INTERSECTION WITH THE SOUTHWESTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF 10TH STREET AS SHOWN ON SAID MAP NO. 1735; THENCE NORTH 71°18'36" EAST ALONG SAID

PROLONGATION, 30.00 FEET TO THE POINT OF BEGINNING.

PORTION OF PUBLIC STREET, VACATED, KNOWN AS ARCADIA PLACE.

APN: 558-010-45-00

#### RESOLUTION NO. 2018 -

RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION-HOUSING AUTHORITY OF THE CITY OF NATIONAL CITY AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SUBORDINATION AGREEMENT WITH WILMINGTON TRUST, NATIONAL ASSOCIATION, SUBORDINATING THE PROJECT DEED OF TRUST THAT SECURES THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (TENANT RESTRICTIONS) ON SUMMERCREST APARTMENTS LOCATED AT 2721 PLAZA BOULEVARD IN NATIONAL CITY

WHEREAS, Summercrest Apartments Associates, LP, a limited liability partnership organized under the laws of the State of Delaware ("Borrower"), is purchasing and rehabilitating a 372-unit multifamily rental housing project ("Project") known as Summercrest Apartments located at 2721 Plaza Boulevard in National City; and

WHEREAS, in 2001, the Community Development Commission—Housing Authority of the City of National City ("CDC-HA") made a loan for \$500,000 from the HOME Investment Partnerships Program and the Low and Moderate Income Fund to assist in the substantial rehabilitation of the Project, and the loan was paid in full to the CDC-HA in 2013; and

WHEREAS, in consideration of receiving financial assistance, the CDC-HA restricted the affordability of 370 units through April 15, 2032 by recording a Declaration of Covenants, Conditions and Restrictions ("Declaration") and securing the Declaration with a Project Deed of Trust ("Deed of Trust"); and

WHEREAS, the Borrower desires to finance the Project with a new mortgage loan from Wilmington Trust, National Association ("Lender"); and

WHEREAS, in order to provide the loan, the Lender requires the subordination of the Project Deed of Trust that secures the Declaration; and

WHEREAS, a condition of the CDC-HA executing the Subordination Agreement is having the Borrower execute an Assignment and Assumption of the Declaration.

NOW, THEREFORE, BE IT RESOLVED that the Community Development Commission-Housing Authority of the City of National City hereby authorizes the Executive Director, or authorized designee, to execute a Subordination Agreement with Wilmington Trust, National Association, and any other Escrow related documents, as necessary, subordinating the Project Deed of Trust that secures the Declaration of Covenants, Conditions, and Restrictions (Tenant Restrictions) on Summercrest Apartments located at 2721 East Plaza Boulevard in National City. After being recorded by the County of San Diego, a copy of said Subordination Agreement will be on file in the office of the City Clerk.

PASSED and ADOPTED this 24th day of July, 2018.

	Ron Morrison, Chairman
ATTEST:	APPROVED AS TO FORM:
Leslie Deese, Secretary	Angil P. Morris-Jones General Counsel

The following page(s) contain the backup material for Agenda Item: Discussion of language for a resolution in opposition to the Trump Administration's "Zero Tolerance" Policy and Family Separation of Immigrants. (Councilmember Sotelo-Solis)

DRAFT Resolution of the City Council of the City of National City, in opposition to the Trump Administration's "Zero Tolerance" Policy and Family Separation of Immigrants

WHEREAS, the City of National City has a rich heritage that was made possible by immigrants from around the world, many of whose descendants are active citizens of our City; and

WHEREAS, in 2017, the City of National City declared itself a Welcoming City for all people including immigrants and refugees, and established a Human Relations Commission committed to completion of the certification process of the Welcoming America Network; and

WHEREAS, the City of National City confirms its support for the California Values Act (SB 54) and a "clean" DREAM Act; and

WHEREAS, we acknowledge our country's history of disgraceful and inhumane immigration laws and policies including: the declaration of some human beings as slaves and regarded as inherently "less than" others in our Constitution; the forced relocations and decimation of Native American Peoples and cultures; the Chinese Exclusion Act of 1882; the rejection of a ship of Jewish refugees who were refused entry to the U.S. during WWII and later killed in Nazi Concentration Camps; and the internment of Japanese-American families which caused irreparable harm to families and children, many from our South Bay community; and

WHEREAS, more recently, faith and lay leaders from many diverse religions and traditions, advocates for human rights, and citizens and people of good will have lifted their voices in righteous moral opposition to the separation of families and the detention of thousands of children, and are calling for the immediate reunification of families and their release from detention. Family detention is not the solution to family separation; and

WHEREAS, the Trump administration has implemented a "zero tolerance" policy under which the Justice Department has attempted to criminally prosecute persons who cross the Mexican border, even if many could be legally seeking asylum or refugee status; and

WHEREAS, during the last few months, over 2,000 children were separated from their parents due to this "zero tolerance" policy; and

WHEREAS, despite the President's recent Executive Order, families remain separated and the "zero tolerance" policy continues; and

WHEREAS, despite a lack of transparency, there are multiple reports of immigrant detainees being held in inhumane conditions at detention facilities; and

WHEREAS, the practice of punishing innocent children and disrupting families as a attempted deterrent to immigration is a human rights abuse that has caused substantial trauma to children and parents; and

WHEREAS, these practices deprive both parent and child of reasonable due process and are a gross departure from the norms of the United States and all civilized societies; and

WHEREAS, the practice of forced separation is not commensurate with the parent's alleged offense; and

WHEREAS, the practice of implementing the Streamline program in immigration proceedings in California is an affront to Due Process guaranteed by our Constitution; and

WHEREAS, the United Nations has called for an immediate halt to the practice of separating families entering the United States, claiming that the practice violates their rights as well as international law; and

WHEREAS, we believe in the dignity and worth of all humans, and as elected representatives of the people, have a special responsibility to speak out loudly in the face of dehumanizing anti-immigrant rhetoric and to act against actions that tear families apart.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of National City:

- 1. Declares its opposition to the Trump administration's "zero tolerance" policy, and the practice of family separation and detention of immigrant children. The practice of family separation is a result of the "zero tolerance" policy which criminalizes all migrants who attempt to cross the border without established legal status, denies asylum-seekers and other immigrants of their rights to due process, blocks migrants' ability to submit claims of asylum, has been used to separate children from their families and to hold children hostage in exchange for their family's "self-deportation"; and
- 2. Calls on the Trump administration to immediately reunite all detained and separated families, and to release them to community settings to await processing of their immigration cases; and
- 3. Declares its opposition to federal efforts to divert our State and local public safety personnel and resources for the purpose of engaging in federal agency roundups and immigration enforcement operations; and
- 4. Declares its opposition to operation Streamline that has resulted in mass trials and a violation of Due Process; and
- 5. Directs the City Manager/Mayor to forward a copy of this resolution to California's representatives of the United States Senate, the United States House of Representatives, Senate Majority Leader Mitch McConnell, House Speaker Paul Ryan, Attorney General Jeff Sessions, and President Donald Trump; our city's State Assembly and Senate representatives; the members of the San Diego County Board of Supervisors; and the mayors and city managers of the cities within San Diego County.